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Digest of City Charters

TOGETHER WITH

Other Statutory and Constitutional
Provisions Relating to Cities

PREPARED UNDER THE DIRECTION
OF THE

Chicago-Charter Convention

By AUGUSTUS RAYMOND HATTON

Department of Political Science
The University of Chicago

CHICAGO, 1906

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Milton J. Foreman, Chairman

INTRODUCTORY NOTE ON THE CHICAGO CHARTER CONVENTION

On June 19, 1905, the city council of the City of Chicago adopted the following resolution:

WHEREAS, The 44th General Assembly failed to give Chicago any of the essentials which are necessary for a better local government as contemplated by the amendment to the Constitution adopted last November; and,

WHEREAS, This failure of the legislature was due to lack of unanimity on the part of the various committees and organizations which proposed the amendments to the General Assembly; and,

WHEREAS, If Chicago is to get remedial legislation from the next Legislature it is necessary that steps be taken to formulate in advance measures that shall represent with some degree of unanimity the public sentiment and need of Chicago; now therefore be it,

Resolved, By the city council of the City of Chicago, that there is hereby constituted a Charter Convention to be made up as follows:

1. Fifteen members of the city council to be selected by the Committee on State Legislation of the city council.
 2. Fifteen members of the 44th General Assembly residing in Cook county, to be selected by the presiding officers of the Senate and House of Representatives of the 44th General Assembly, acting jointly.
 3. Fifteen citizens of Chicago to be appointed by the Mayor of Chicago.
 4. Fifteen citizens of Chicago to be appointed by the Governor of the State of Illinois.
 5. Two representatives of each of the following bodies: Board of Cook County Commissioners, Trustees of the Sanitary District, Board of Education, Library Board, South Park Board, West Park Board and Lincoln Park Board; the two representatives in each case to be appointed by the presiding officer of each of the respective bodies.
- Said Charter Convention shall assemble in the Council Chamber at such time as may be designated by his Honor, the Mayor of Chicago. The Convention shall be called to order by the Mayor of the City of Chicago, who shall preside until the permanent organization shall be effected. The Convention shall organize by selecting a presiding officer from among its membership. The Convention shall elect a Secretary

and shall make provision for such other officers as it may deem necessary.

Said Convention shall make a study of the needs of Chicago with respect to further charter legislation, to the end that it shall be able to present to the next legislature a measure or measures that shall confer upon Chicago a comprehensive home rule charter.

The various departments of the City of Chicago are hereby ordered and directed to supply to said Charter Convention such information and assistance as it may be within their power to render. The other bodies to be represented in such Convention are also requested to render like assistance and information.

The city council on October 30, 1905, adopted the following resolution:

WHEREAS, On the 19th day of June, 1905, the city council passed a resolution creating and constituting a Charter Convention to consider charter changes for the City of Chicago which resolution is printed on page 633 of the current council proceedings; and,

WHEREAS, By said resolution the Mayor of the City of Chicago was authorized and directed to appoint fifteen citizens of Chicago as delegates to said Convention, and was further directed, when all the delegates in said resolution provided for had been appointed, to fix a time for said Convention to assemble and call the delegates together; and,

WHEREAS, All the delegates to said Convention have been appointed, excepting those which are to be appointed by the Mayor of the City of Chicago; and,

WHEREAS, It is important to the City of Chicago that no further delay shall ensue in appointing said delegates and convening said Convention; now therefore be it,

Resolved, That the Mayor be, and is hereby, requested to appoint fifteen delegates without further delay, and immediately upon their appointment to call said Convention together in the manner and for the purpose set forth in the resolution hereinbefore referred to.

In compliance with this legislation, the Convention was appointed and convened in the Council Chamber of the City of Chicago, December 12, 1905, its membership being seventy-four, the men being designated by the following authorities:

Mayor Edward F. Dunne,
The City Council,
Governor Charles S. Deneen,
The Speaker of the House of Representatives and the President
of the Senate of the Illinois General Assembly.
The Chicago Board of Education,
The Board of Sanitary Trustees,
The County Board of Cook County,

The Chicago Public Library,
The South Park Board,
The Lincoln Park Board,
The West Park Board.

The officers chosen by the Convention were Judge Orrin N. Carter, Chairman; Milton J. Foreman, Vice-Chairman, and M. L. McKinley, Secretary.

On July 10, 1906, Judge Carter resigned, owing to the fact that he had been elected a Justice of the Supreme Court of Illinois, and Milton J. Foreman was unanimously elected to succeed him. Alexander H. Revell was elected to succeed Col. Foreman as Vice-Chairman.

Since the organization of the Convention, the following have succeeded to vacancies caused by resignations:

W. Clyde Jones, vice Francis W. Parker.

George W. Paullin, vice Alexander J. Jones.

Thomas A. McMillan, vice Orrin N. Carter.

The present officers of the Convention are:

Milton J. Foreman	Chairman
Alexander H. Revell	Vice-Chairman
M. L. McKinley	Secretary
Henry Barrett Chamberlin	Assistant Secretary

The complete membership is as follows:

Joseph Badenoch,	Andrew J. Graham,	E. J. Rainy,
William H. Baker,	John Guerin,	Walter J. Raymer,
Walter E. Beebe,	Joseph F. Haas,	Alexander H. Revell,
A. W. Beilfuss,	Carter H. Harrison,	Lewis Rinaker,
Frank I. Bennett,	John W. Hill,	Raymond Robins,
Z. P. Brosseau,	Frank G. Hoyne,	Lessing Rosenthal,
William M. Brown,	Thomas M. Hunter,	C. O. Sethness,
Richard E. Burke,	W. Clyde Jones,	D. E. Shanahan,
Thomas Carey,	James M. Kittleman,	John G. Shedd,
Chester W. Church,	Bryan Lathrop,	Frank L. Shepard,
B. F. Clettenberg,	James J. Linehan,	John F. Smulski,
George E. Cole,	Carl Lundberg,	B. W. Snow,
D. F. Crilly,	Thomas C. MacMillan,	B. E. Sunny,
Daniel L. Cruice,	R. R. McCormick,	George B. Swift,
William E. Dever,	John P. McGoorty,	Graham Taylor,
George W. Dixon,	M. L. McKinley,	George J. Thompson,
Thomas J. Dixon,	Charles E. Merriam,	Charles J. Vopicka,
B. A. Eckhart,	Joseph A. O'Donnell,	Edwin K. Walker,
John W. Eckhart,	Theodore Oehne,	Charles Werno,
Henry F. Eidmann,	John E. Owens,	R. A. White,
F. E. Erickson,	George W. Paullin,	D. R. Wilkins,
Walter L. Fisher,	Joseph M. Patterson,	John P. Wilson,
John J. Fitzpatrick,	R. E. Pendarvis,	Edward C. Young,
Milton J. Foreman,	Louis F. Post,	Michael Zimmer.
F. H. Gansbergen,	John Powers,	

The Convention maintains headquarters at 171 Washington street, where its committee meetings are held, and meets in general session in the Council Chamber of the City of Chicago.

PREFACE

The preparation of this volume was undertaken at the request of the Chicago Charter Convention, the purpose being to provide the members with a convenient book of reference for use during the drafting of a new charter for the city. Though the desirability of such a work was recognized by many soon after the Convention was organized, it was not until July, 1906, that the matter was finally decided and the work begun. The Convention had then been in existence over six months and it was desired to complete the draft of a charter during the autumn. Thus, if the volume was to be of any service to the Convention the work of digesting and arranging the large amount of material had to be done in the comparatively short time of three months. In a work prepared under such pressure some errors have doubtless been made. The editor may perhaps be permitted to state, by way of partial extenuation of such defects as may be found, that as much care was used to secure accuracy as the time at his disposal would permit.

The volume attempts to bring together under definite heads the main provisions of constitutions, charters and other statutes relating to the structure and powers of the governments of a number of important cities. The cities which have been given full consideration are Baltimore, Boston, Chicago, Cleveland, Denver, Detroit, New Orleans, New York, Philadelphia, St. Louis, San Francisco, Glasgow, London, Manchester, Toronto, Berlin, Paris and Vienna. In addition, provisions regarding Buffalo, Galveston, Grand Rapids, Houston, Los Angeles and Portland have occasionally been inserted where they present interesting variations from the types represented by the other cities.

As originally planned the volume was intended to include a digest of the laws governing one or two Australian cities. This could not be fully accomplished, but in so far as the material was immediately available provisions regarding Melbourne and Sydney have been inserted. However, the matter relating to these cities goes very little beyond the mere structure of their governments, since a complete collection of the statutes of Victoria or New South Wales could not be found in the city and time forbade attempting to procure them from elsewhere.

Beside the digest of actual legal provisions it has been thought desirable to reprint the greater part of the model corporations act from the Municipal Program adopted by the National Municipal League in 1899. This act was framed by Messrs. Frank J. Goodnow, Albert Shaw, Leo S. Rowe, Horace E. Deming, George W. Guthrie, Charles Richardson and Clinton Rogers Woodruff, whose names alone are sufficient to demand serious consideration for any plan of municipal government receiving their endorsement. The act is not a slavish adoption of the forms and methods of other countries, but without neglecting the lessons of foreign experience it aims to take account of American conditions and American political ideas. It has been pretty generally accepted by leading authorities on municipal government as the best plan yet formulated for the government of cities in the United States.

The general plan of the digest can be most readily understood by examining the table of contents. With the exception of Part One and a portion of Part Two which are general in nature, only the cities above enumerated are considered. The cities are arranged under each head in three groups, (1) The United States, (2) Great Britain, Canada and Australia, (3) Continental Europe. Within the groups the cities are arranged alphabetically.

An exception to the general plan of arrangement was made under Legislative Powers of City Councils in Part Three. Instead of giving the provisions for all the cities under each class of powers it was thought best to classify the powers of each city separately according to a common plan. By this method the entire legislative power of any city will be found in consecutive pages while by the use of the table of contents the powers of all the cities on a given point may be readily ascertained for purposes of comparison.

It was intended that the book should contain a fifth part devoted to municipal courts. For want of time this has been omitted. However, so far as the Charter Convention is concerned, this is not considered a serious defect, since by the act of 1905 the Illinois legislature provided Chicago with a new system of municipal courts which is just being put into operation. Lack of time also made it necessary to omit from consideration the departmental organization of foreign cities. A more serious defect is the lack of an adequate index. In this instance, also, time was the controlling factor. It seemed more important to get the book into the hands of members of the Convention

than to withhold it until an index could be made. It is hoped that the very full table of contents will make the matter contained in the volume reasonably accessible.

Acknowledgment is due to a number of persons for assistance of various kinds. The obligation of the editor to Prof. Charles E. Merriam of the Department of Political Science, the University of Chicago, is especially weighty. To his suggestions, criticism and general co-operation a large portion of any merit which the volume may possess must be attributed.

In the actual work of digesting and arranging the immense amount of material the assistance of Miss Eleanor Murphy, a former Scholar in the Department of Political Science, and of Mr. Frederick D. Bramhall, a Fellow in the same department, was especially valuable. Without their aid the task could not have been completed within the short time allotted.

Finally the editor wishes to acknowledge the valuable co-operation and uniform courtesy of Col. Milton J. Foreman, Chairman of the Charter Convention. It was largely owing to his initiative that the work was undertaken and he should be credited with a large measure of whatever success has attended its execution.

The University of Chicago,
Oct. 25, 1906.

A. R. H.

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PART ONE

THE RELATION OF THE CITY TO THE STATE

I. THE GENERAL POSITION OF THE CITY IN RELATION TO THE STATE OR CENTRAL GOVERNMENT.

1. IN THE UNITED STATES AND GREAT BRITAIN.

"It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation,—not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied. Of every municipal corporation the charter or statute by which it is created is its organic act. Neither the corporation or its officers can do any act, or make any contract, or incur any liability, not authorized thereby, or by some legislative act applicable thereto. All acts beyond the scope of the powers granted are void. Much less can any power be exercised, or any act done, which is forbidden by charter or statute."—Dillon, *Law of Municipal Corporations* (4th ed.) pp. 145, 146.

"The position of the city in American jurisprudence is theoretically one of complete dependence upon the will of the State Legislature, except so far as municipal rights may be guaranteed either, by the constitution of the state or of the United States. Barring express prohibition in one of these instruments, the legislature may extend or contract the boundaries of a city at will, may restrict or expand its functions, may create or annihilate, and no one may say it nay."—Maltbie, *City Made Charters*, 13 *Yale Review*, p. 380.

"The character of our administrative system has several important effects on the position of the city. In the first place, the city is made by the system the creature of the state legislature. In the absence of a constitutional restriction the legislature of the state may do as it will with cities within its jurisdiction. The charters of cities are at the present time regarded as mere statutes, which, in the absence of a constitutional limitation of the powers of the legislature, are subject to amendment by that body at any time.

"In the second place, the city, in the absence of a constitutional provision, has no powers not granted to it by the legislature.

"It may be added that the legislatures of the states have not granted wide powers to cities, but have generally enumerated in greater or less detail the powers which cities may exercise. Thus when the city of New York wished to build and lease a rapid transit railway it had no power to do so, and had to apply to the legislature for the necessary authority. Thus again, when it wished to establish a municipal electric-lighting plant, it had no power. When it applied to the legislature for authority in this instance, its application was denied.

"In the third place, whatever may be the theoretical power of the city to enter upon any particular branch of governmental activity, the financial powers which it possesses are so limited that it is practically unable to exercise the powers of which it may be possessed without the grant to it by the legislature of the necessary financial power. That is, the American law recognizes the taxing power, from whose exercise most of the city's revenues must come, as a power of state government possessed alone by the state legislature. The city certainly does not possess it in the absence of legislative grant. The American law does not accord to cities large powers of borrowing money in the absence of legislative authorization. In many cases the legislature has been as niggardly in its grants to cities of financial powers as it has been in the grants of other powers.

"For all of these reasons a city in the United States is, in the absence of constitutional provisions, completely at the mercy of the state legislature so far as concerns both its governmental powers and its financial resources. This subjection of the city to the state is a result of the defeat of the cities in their long struggle with the state during the seventeenth and eighteenth centuries to which attention has been called. In this respect American cities differ in no way from European cities. The European legislature has exactly the same theoretical powers over the European city as has the American legislature over the American city. But the whole European system of government is so different from the American system that the actual position of the city in Europe is quite different from that of the city of the United States.

"The Anglo-American corporation is an authority of enumerated powers; the European local corporation is an authority of general powers. The Anglo-American local corporation may do only those things which the legislature of the state says plainly that it may do; the European local corporation may do everything which the legislature of the state has not plainly forbidden it to do.

"At first blush the difference in the position of the American city from that of the European city may not seem to be of great importance. A more careful study of the matter will, however, show that this difference is crucial. For the American state legis-

lature has been, one might almost say, irresistibly tempted so to make use of its well recognized powers over the cities subject to its jurisdiction, as to deprive them of most of their functions of local government, and to make them the playthings of state and national politics. Under these conditions a scientific solution of the vexed question of municipal organization has been impossible, and the proper discharge by the cities of the functions necessary to the welfare of the urban population has been seriously interfered with, if not absolutely prevented."—Goodnow, *City Government in the United States*, pp. 73-77.

A striking exception to the general practice in the United States and Great Britain of restricting the action of municipal authorities by a detailed enumeration of specific powers, implying a prohibition to exercise any power not specifically granted, is to be found in the recent charter of the city of Houston, Texas. The charter provides:

"The City of Houston shall have power to enact and to enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove nuisances, and to preserve and enforce the good government, order and security of the city and its inhabitants; to protect the lives, health and property of the inhabitants of said city, and to enact and enforce any and all ordinances upon any subject; provided that no ordinance shall be enacted inconsistent with the laws of the State of Texas, or inconsistent with the provisions of this Act, and provided, further, that the specification of particular powers shall never be construed as a limitation upon the general powers herein granted, it being intended by this Act to grant to and bestow upon the inhabitants of the City of Houston and the City of Houston full power of self government, and it shall have and exercise all powers of municipal government not prohibited to it by this charter or by some general law of the State of Texas or by the provisions of the Constitution of the State of Texas." (Special Laws of Texas, 1905, Ch. 17, Art. II., Sec. 2.)

2. CONTINENTAL EUROPE.

"The legislature has never attempted to enumerate the duties of the local corporations with the same minuteness as in England and in the United States. The statutes simply lay down the general principles of local administration, leaving to the local corporations to carry them out in their details. The legislature simply says that the local corporations are to attend to local affairs or that the principal authority in a given district, which is at the same time a corporation, is to control by its decisions the affairs of the particular locality. What 'local affairs' means is to be derived from a perusal of the laws with the object of finding what

the legislature has said shall be attended to by the central administration. All that in the nature of things may be called administration and can be attended to by the localities and has not been put into the hands of one of the central authorities is then regarded as local in character. The local municipal corporations are not, therefore, as in the United States, authorities of enumerated powers, but have the right to exercise all such powers as they wish to exercise, and in the manner they see fit to adopt, provided they do not violate the spirit or the letter of the law. But they are subject to a central administrative control which is to prevent them from encroaching upon the competence of the central government and in many cases from acting extravagantly or unwisely." * * *

"The French law is not nearly so specialized as is the law in the United States and England governing the powers of the local authorities. Much larger powers are granted to the localities by the legislature in France than in the United States or England. Thus a French city may adopt such institutions of local concern as it may see fit without being obliged, as is often the case in the United States, to appeal to the legislature for power. It may, in accordance with the provisions of the general law governing the powers of communes, and on account of the general grant of local administrative power to the communes, establish municipal gas works, or operate local tramways, though no special mention is made in the law of any such powers." * * *

"As in the French, so in the Prussian system of local government, the interference of the central legislature in local affairs is infinitesimal, if it exists at all. Enough of the old feudal ideas of local autonomy have remained to permit of the development of the principle that there is a sphere of administrative action which must be left almost entirely to the localities; that within this sphere the legislature should not interfere at all; that any central interference or control that may be required over this local administration should come from the administration and in the main from the lay authorities of the administration, and should be confined simply to preventing the localities from incurring too great financial burdens. Therefore the law does not, as in the United States, and as it does to a certain extent in England, enumerate the powers and duties of the localities, but says simply that the local affairs of the particular districts shall be governed by the decisions of the local authorities in the nature of local legislatures, and that in those cases only in which the law has expressly given it the power may the central administration step in to protect the localities from their own unwise action. This system is one of the general grants of local power with the necessity in certain cases of central *administrative* — not legislative — approval or control. The benefits of such a system cannot be overestimated. Through its adoption all the evils of local and special legislation are avoided. In place of an irresponsible legis-

lative control, which in the United States has shown itself so incapable of preventing the extravagance of localities that in many cases the power of the legislature to permit local action has been curtailed by the constitutions, is to be found a control exercised by responsible authorities—authorities which have a certain permanence and are well able to judge whether a given action will be really hurtful to a locality or not. At the same time the greater freedom from central interference guaranteed to the localities by this system is well calculated to encourage the growth of local pride and responsibility.”—Goodnow—Comparative Administrative Law, I. pp. 266-267, 292, 336-337.

The powers of the French Communal Councils are granted in the following terms: “The municipal council regulates by its deliberations the affairs of the commune.”—French Municipal Code, Art. 61.

II. CONSTITUTIONAL PROVISIONS REGARDING THE FRAMING OF CITY CHARTERS.

California.—Const., Art. XI., Sec. 6. Corporations for municipal purposes shall not be created by special laws; but the legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population of cities and towns, which laws may be altered, amended or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this constitution, except in municipal affairs, shall be subject to and controlled by general laws. (Amend. adopted Nov. 3, 1896.)

Sec. 8. Any city containing a population of more than three thousand five hundred inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of the said city, at any general or special election, to prepare and propose a charter for such city, which shall be signed in duplicate by themselves or such board, or a majority of them, and returned, one copy to the mayor thereof, or other chief executive officer of such city, and the other to the recorder of the county. Such proposed charter shall then be published in two daily newspapers of general circulation in such city for at least twenty days, and the first publication shall be made within twenty days after the completion of the charter;

- (c) Gas and Electric Light.
Baltimore, 115; Boston, 124; Chicago, 137; Cleveland, 150; Denver, 161; Detroit, 169; New Orleans, 175; Philadelphia, 187; St. Louis, 194; San Francisco, 203; Toronto, 225.
- (d) Telephones and Telegraphs.
Baltimore, 115; Boston, 125; Chicago, 138; Cleveland, 152; Denver, 161; Detroit, 169; New Orleans, 175; Philadelphia, 187; St. Louis, 194; San Francisco, 203; Toronto, 226.
- (e) Water.
Baltimore, 115; Boston, 125; Chicago, 138; Cleveland, 152; Denver, 161; Detroit, 169; New Orleans, 175; Philadelphia, 187; St. Louis, 194; San Francisco, 203; Toronto, 226.
- (f) Sewers and Drains.
Baltimore, 116; Boston, 126; Chicago, 139; Cleveland, 153; Denver, 161; Detroit, 170; New Orleans, 175; Philadelphia, 187; St. Louis, 195; San Francisco, 203; Toronto, 226.
- (g) Markets and Abattoirs.
Baltimore, 116; Boston, 126; Chicago, 139; Cleveland, 154; Denver, 162; Detroit, 170; New Orleans, 175; New York, 181; Philadelphia, 187; St. Louis, 195; San Francisco, 203; The Municipal Program, 209; Toronto, 226.
- (h) Wharves, Docks and Landings.
Baltimore, 116; Chicago, 139; Cleveland, 154; Detroit, 170; New Orleans, 175; New York, 182; Philadelphia, 187; St. Louis, 195; San Francisco, 204; The Municipal Program, 209; Toronto, 227.
- (i) Public Buildings and Miscellaneous.
Chicago, 139; Cleveland, 157; Denver, 162; Toronto, 227.
- (7) Public Recreation.
Baltimore, 117; Boston, 126; Chicago, 139; Cleveland, 154; Denver, 162; Detroit, 170; New Orleans, 175; New York, 182; Philadelphia, 188; St. Louis, 196; San Francisco, 204; The Municipal Program, 209; Toronto, 227.

- (8) Education.
Baltimore, 117; Boston, 126; Chicago, 140; Cleveland, 154; Denver, 162; Detroit, 170; New Orleans, 176; New York, 182; Philadelphia, 188; St. Louis, 196; San Francisco, 204; The Municipal Program, 210; Toronto, 227.
 - (9) Charities and Corrections.
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PART FOUR.

THE CITY EXECUTIVE.

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 - (a) The United States 252
 - (b) Great Britain and Canada 252
 - (c) Continental Europe 253

official newspaper of said county and city, three times, and a week apart, the first publication being with the call for special election, at which the qualified electors of said city and county shall by vote express their approval or rejection of the said charter. If the said charter be approved by a majority of those voting thereon, then two copies thereof (together with the vote for and against), duly certified by the said clerk, shall, within ten days after such vote is taken, be filed with the secretary of state, and shall thereupon become and be the charter of the city and county of Denver. But if the said charter be rejected, then, within thirty days thereafter, twenty-one members of a new charter convention shall be elected at a special election, to be called as above in said city and county, and they shall proceed as above to frame a charter, which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated shall be repeated (each special election for members of a new charter convention being within thirty days after each rejection), until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, whereupon it shall become the charter of the said city and county of Denver, and shall become the organic law thereof, and supersede any existing charters and amendments thereof. The members of said charter conventions shall be elected at large; and they shall complete their labors within sixty days after their respective election.

Every ordinance for special election of charter convention members shall fix the time and place where the convention shall be held, and shall specify the compensation, if any, to be paid to the officers and members thereof, allowing no compensation in case of non-attendance or tardy attendance, and shall fix the time when the vote shall be taken on the proposed charter, to be not less than thirty days nor more than sixty days after its delivery to the clerk. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city and county of Denver.

All expenses of charter conventions shall be paid out of the treasury upon the order of the president and secretary thereof. The expenses for elections for charter conventions and of charter votes shall be paid out of the treasury, upon the order of the council.

Sec. 5. The citizens of the city and county of Denver shall have the exclusive power to amend their charter or to adopt a new charter, or to adopt any measure as herein provided:

It shall be competent for qualified electors, in number not less than five per cent. of the next preceding gubernatorial vote in said city and county, to petition to the council for any measure, or charter amendment, or for a charter convention. The council

shall submit the same to a vote of the qualified electors at the next general election, not held within thirty days after such petition is filed; whenever such petition is signed by qualified electors in number not less than ten per cent. of the next preceding gubernational vote in said city and county, with a request for a special election, to be held not less than thirty nor more than sixty days from the date of filing the petition; Provided, that any question so submitted at a special election shall not be again submitted at a special election within two years thereafter. In submitting any such charter, charter amendment or measure, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. Whenever the question of a charter convention is carried by a majority of those voting thereon, a charter convention shall be called through a special election ordinance, as provided in Section four (4) hereof, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, and all expenses paid, as in said section provided.

The clerk of the city and county shall publish, with his official certification, for three times, a week apart, in the official newspaper, the first publication to be with his call for the election, general or special, the full text of any charter, charter amendment, measure or proposal for a charter convention, or alternative article or proposition, which is to be submitted to the voters. Within ten days following the vote the said clerk shall publish once in said newspaper the full text of any charter, charter amendment, measure, or proposal for charter convention, or alternative article or proposition, which shall have been approved by a majority of those voting thereon, and he shall file with the secretary of state two copies thereof (with the vote for and against), officially certified by him, and the same shall go into effect from the date of such filing. He shall also certify to the secretary of state, with the vote for and against, two copies of every defeated alternative article or proposition, charter, charter amendment, measure or proposal for a charter convention. Each charter shall also provide for a reference, under proper petition thereof, of measures passed by the council to the vote of the qualified electors, and for the initiative by the qualified electors of such ordinances as they may request by petition.

The signatures to petitions in this amendment mentioned need not all be on one paper. Nothing herein or elsewhere shall prevent the council, if it sees fit, from adopting automatic vote registers for use at elections and references.

No charter, charter amendment, or measure adopted or defeated under the provisions of this amendment shall be amended, repealed or revived, except by petition and electoral vote. And no

such charter, charter amendment or measure shall diminish the tax rate for state purposes fixed by act of the general assembly, or interfere in any wise with the collection of state taxes.

Sec. 6. Cities of the first and second class in this state are hereby empowered to propose for submission to a vote of the qualified electors proposals for charter conventions and to hold the same, and to amend any such charter, with the same force and in the same manner, and have the same power, as near as may be, as set out in sections four (4) and five (5) hereof, with full power as to real and personal property and public utilities, works or ways, as set out in section one (1) of this amendment.

Sec. 8. Anything in the constitution of this state in conflict or inconsistent with the provisions of this amendment is hereby declared to be inapplicable to the matters and things by this amendment covered and provided for.

Minnesota.—Const., Art. IV., Sec. 36. "Any city or village in this state may frame a charter for its own government as a city, consistent with and subject to the laws of this state, as follows: The legislature shall provide, under such restrictions as it deems proper, for a board of fifteen freeholders, who shall be and for the past five years shall have been qualified voters thereof, to be appointed by the district judges of the judicial district in which the city or village is situated, as the legislature may determine, for a term in no event to exceed six years, which board shall, within six months after appointment, return to the chief magistrate of the said city or village a draft of said charter, signed by the members of said board, or a majority thereof. Such charter shall be submitted to the qualified voters of such city or village at the next election thereafter, and if four-sevenths of the qualified voters voting at such election shall ratify the same it shall, at the end of thirty days thereafter, become a charter of such city or village as a city, and supersede any existing charter or amendment thereof; Provided, that in cities having patrol limits now established, such charter shall require a three-fourth majority vote of the qualified voters voting at said election to change the patrol limits now established. Before any city shall incorporate under this act the legislature shall prescribe by law the general limits within which such charter shall be framed. Duplicate certificates shall be made setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of the said city or village and authenticated by its corporate seal. One of said certificates shall be deposited in the office of the secretary of state, and the other, after being recorded in the office of the register of deeds for the county in which such city or village lies, shall be deposited among the archives of such city or village, and the courts shall take

judicial notice thereof. Such charter so deposited may be amended by proposal thereof made by a board of fifteen commissioners aforesaid, published for at least thirty days in three newspapers of general circulation in such city or village, and accepted by three-fifths of the qualified voters of such city or village voting at the next election and not otherwise; but such charter shall always be in harmony with and subject to the constitution and laws of the state of Minnesota. The legislature may prescribe the commissioners relative to submitting amendments of the charter to the vote of the people, and shall provide that upon application of five per cent. of the legal voters of any such city or village, by written petition, such commission shall submit to the vote of the people proposed amendments to such charter set forth in said petition. The board of freeholders above provided for shall be permanent, and all the vacancies by death, disability to perform duties, resignation or removal from the corporate limits, or expiration of term of office, shall be filled by appointment in the same manner as the original board was created, and said board shall always contain its full complement of members. It shall be a feature of all such charters that there shall be provided, among other things, for a mayor or chief magistrate, and a legislative body or either one or two houses; if of two houses, at least one of them shall be elected by general vote of the electors. In submitting any such charter or amendment thereto to the qualified voters of such city or village, any alternate section or article may be presented for the choice of the voters, and may be voted on separately without prejudice to other articles or sections of the charter or any amendment thereto. The legislature may provide general laws relating to affairs of cities, the application of which may be limited to cities of over fifty thousand inhabitants, or to cities of fifty and not less than twenty thousand inhabitants, or to cities of twenty and not less than ten thousand inhabitants or less, which shall apply equally to all such cities of either class, and which shall be paramount while in force to provisions relating to the same matter included in the local charter therein provided for. But no local charter, provision or ordinance passed thereunder shall supersede any general law of the state defining or punishing crimes or misdemeanors." (Adopted Nov. 3, 1896. Amended Nov. 8, 1898.)

Missouri.—(Provisions applying to cities other than St. Louis.)—Const. Art. IX., Sec. 16. (Adopted 1875.) Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall within ninety days

after such election return to the chief magistrate of such city a draft of such charter, signed by the members of such board or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city, at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereto. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One such certificate shall be deposited in the office of the secretary of state, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter so deposited may be amended by a proposal therefor, made by the law making authorities of such city, published for at least thirty days in three newspapers of largest circulation in said city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the constitution and laws of the State.

Sec. 17. It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate, and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

Provisions applying to St. Louis alone.—Sec. 22.—(As amended March 11, 1901.) "The charter (of St. Louis) may be amended by proposals therefor submitted by the law-making authorities of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals and accepted by three-fifths of the qualified voters voting for or against each of said amendments so submitted; the law-making authorities of such city may order an election by the qualified voters of the city of a board of thirteen freeholders of such city to prepare a new charter for such city, which said charter shall be in harmony with and subject to the constitution and laws of the state, and shall provide among other things, for a chief executive and at least one house of legislation to be elected by general ticket. Said revised charter shall be submitted to the qualified voters of

such city at an election to be held not less than twenty or more than thirty days after the order therefor, and if a majority of such qualified voters voting at such election ratify such charter, then said charter shall become the organic law of such city, and sixty days thereafter shall take effect and supersede the charter of such city, and all special laws inconsistent therewith."

Sec. 23. "Such charter and amendments shall always be in harmony with and subject to the constitution and laws of Missouri, except only that provision may be made for the graduation of the rate of taxation for city purposes in the portions of the city which are added thereto by the proposed enlargement of its boundaries. . . .

"Sec. 25. Notwithstanding the provisions of this article, the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties of this state."

Oregon.—Const. XI., Sec. 2. (As amended June 4, 1906.) "The legislative assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the constitutional and criminal laws of the State of Oregon."

Washington.—Const. XI., Sec. 10. "Corporations for municipal purposes shall not be created by special laws, but the Legislature by general laws, shall provide for the incorporation, organization and classification in proportion to population, of cities and towns, which laws may be altered, amended or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by the authority of this Constitution, shall be subject to, and controlled by general laws. Any city containing a population of twenty thousand inhabitants or more shall be permitted to frame a charter for its own government, consistent with and subject to the Constitution of this State, and for such purpose the legislative authority of such city may cause an election to be had, at which election there shall be chosen by the qualified electors of the said city fifteen freeholders thereof, who shall have been residents of said city for a period of at least two years preceding their election and qualified electors, whose duty it shall be to convene within ten days after their election and prepare and propose a charter for such city. Such proposed charter shall be submitted to the qualified

electors of said city, and if a majority of such qualified electors voting thereon ratify the same, it shall become the charter of said city, and shall become the organic law thereof, and supersede any existing charter, including amendments thereto, and all special laws inconsistent with such charter. Said proposed charter shall be published in two daily newspapers published in said city, for at least thirty days prior to the day of submitting the same to the electors for their approval, as above provided. All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election, and shall be given for at least ten days before the day of election, in all election districts of said city. Said elections may be general or special elections, and, except as herein provided, shall be governed by the law regulating and controlling general or special elections in said city. Such charter may be amended by proposals therefor submitted by the legislative authority of such city to the electors thereof at any general election after notice of said submission, published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter or amendment thereto, any alternate article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others."

(Note.—In Louisiana provision was made by statutes in 1896 permitting cities of the state, excepting New Orleans, to frame and adopt their own charters. The law provided that when a majority of the property owners residing in a city petitioned the mayor and council that the question of the adoption of a new charter for the city be submitted to the qualified voters, and the petition was accompanied by the proposed charter, the mayor and council must call an election within ninety days and submit the proposed charter to a popular vote. If the majority of the votes cast at such an election were in favor of the adoption of the proposed charter, it became the charter of the city. (Acts of La., 1896, Act No. 135; Wolff, Revised Laws of La. 1904, Vol. II., pp. 1090, 1091.) This act was apparently, though not beyond doubt, superseded by an act of 1898 providing for the government of all municipalities in the state excepting New Orleans. This latter act provides that cities which vote to come under its provisions may amend their charters in the following manner. The mayor and board of aldermen may prepare the desired amendments in writing and have them published in a daily newspaper of the city for three weeks, or if no such newspaper is published in the municipality, the amendments must be posted in at least three public places in the city for the same length of time. After publication the amendments are submitted to the governor who must submit them to the attorney general for his opinion. If the attorney general is of the opinion that the proposed amendments are consistent with the constitution and laws

of the United States and of the State of Louisiana, including the Act of 1898, the governor must approve them. If after the amendments are published one-tenth of the qualified voters protest against any of them the governor is forbidden to approve the ones protested against until they have been submitted to and ratified by a majority of the electors of the municipality. (Acts of La., 1898, Act No. 136, Sec. 43; Wolff, R. Laws of La., 1904, Vol. II., p. 1087.)

(Note.—The following form for a constitutional amendment to secure to cities the right to frame, adopt and amend their charters is suggested in the Municipal Program, adopted by the National Municipal League in 1899. See preface.)

“Power of Cities to Frame Their Own Charters.—Subject to the constitution and laws of the State, applicable to all of the inhabitants or all the cities thereof, and to such special laws as may be passed in the manner hereinbefore provided, any city having a population of twenty-five thousand or more may adopt its own charter and frame of government in the following manner:

The Council of said city may, and, on a petition therefor, filed in the office of the Mayor, signed by qualified voters of the city equal in number to two per cent. (which shall not be less than one thousand) of those voting at the last preceding election must provide by ordinance for an election to take place not less than — days nor more than — days thereafter, upon a proposition for the election of a board of not less than fifteen nor more than — members, to prepare and propose a charter and frame of government for such city. If such proposition shall receive the affirmative vote of a majority of the qualified voters of the city voting thereon, the Council must, within fifteen days thereafter, provide for the election of such a board within not more than — days. It shall be the duty of said board to convene upon the — after said election, and thereafter and within — days to prepare and propose a charter and frame of government for such city, which shall be signed in duplicate by the members thereof or a majority of them, and returned, one copy thereof to the Mayor and the other to the Secretary of State. Such proposed charter and frame of government shall then be published daily in two papers of general circulation in such city for at least twenty days, and within not less than thirty days and not more than sixty days after such publication shall be submitted to the qualified voters of such city as a special or general municipal election, and the Council of said city shall provide by ordinance for the holding of such special election unless a general municipal election shall be held within the time hereinbefore prescribed.

If a majority of the qualified voters of the city voting thereon shall ratify the same, it shall become the charter and frame of government of such city and the organic law thereof, and super-

sede and repeal all laws inconsistent therewith and any existing charter and all amendments thereof. A copy of such charter and frame of government duly certified by the proper authorities of such city, setting forth its submission to the legally qualified voters of the city and its ratification by them, shall be made in duplicate, and deposited, one in the office of the Secretary of State and the other among the archives of the city. All courts shall take judicial notice thereof. The charter and frame of government so adopted may be amended at intervals of not less than two years by proposals therefor which the Council of the city may, and when requested by a petition filed in the office of the Mayor, signed by qualified voters of said city equal in number to two per cent. (which shall not be less than one thousand) of those voting at the last preceding city election, must submit at the next city election held at least sixty days after the adoption of the ordinance of the filing of such petition in the office of the Mayor. Each such proposed amendment before it goes into effect must be ratified by a majority of the qualified voters voting thereon, as herein provided for the adoption of the charter and frame of government. In submitting any such proposal any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

Petitions.—After the filing of a petition in accordance with the provisions of the foregoing articles, if the Council of the city neglects or fails to provide by ordinance for an election as hereinbefore directed, then it shall be the duty of the Mayor to order such election, and his order for such purpose, duly signed by him and filed in the archives of the city, shall have the same force and effect as an ordinance for the same purpose.

The petitions mentioned in the foregoing articles need not be one paper, and may be printed or written, but the signatures thereto must be the autograph signatures of the persons whose names purport to be signed. To each signature the house address of the signer must be added, and the signature must be made and acknowledged or proved before an officer authorized by law to take acknowledgment and proof of deeds. The certificate of such officer under his official seal that a signature was so made and acknowledged or proved shall be sufficient proof of the genuineness of the signature for the purposes of these articles.

The signing of another's name, or of a false or fictitious name, to a petition, or the signing of a certificate falsely stating either that a signature was made in the presence of the officer or acknowledged or proved before him, shall be punishable as felony.—Municipal Program, pp. 183-186.

III. CONSTITUTIONAL LIMITATIONS ON THE LEGISLATIVE POWER OVER CITIES.

1. PROHIBITIONS OF AND CHECKS ON SPECIAL LEGISLATION.

(1) Incorporation and organization of cities.

(a) The legislature is forbidden to incorporate or organize cities except by general laws in the following states: Ala., Sec. 104; Ark., XII, 2, 3; Cal., XI, 6; Co., XIV, 13; Idaho, XII, 1; Ill., IV, 22 (Chicago excepted. See below under this head); La., Art. 48, Paragraph 12 (But cities having a population of over 2,500 may be organized by special laws); Miss., Sec. 179; Mo., IV, 53; Neb., III, 15, XIII, 1; Nev., VIII, 8 (But the legislature may pass special laws relating to the corporate powers of cities, VIII, 1); N. D., Sec. 130; Ohio, XIII, 1, 6; Pa., III, 7; S. C., III, 34, VIII, 1; S. D., III, 23, X, 1; Tenn., IX, 8; Tex., III, 56 (Applies only to cities of 10,000 population or less, XI, 4, 5); Wash., II, 28, Nos. 6, 8, XI, 10; W. Va., VI, 39 (Applies only to towns under 2,000); Wis. Amend., IV, 31, Nos. 7, 9 (Cities must be incorporated by general laws, but may have corporate powers and privileges conferred by special laws); Utah, VI, 26, XI, 5; Wyo., III, 27, XIII, 1.

(b) In Virginia the legislature is required to pass general laws for the organization and government of cities but may pass special acts in reference thereto, if such acts have first been referred to the joint committee on special, private and local legislation provided for by Sec. 51 of the Constitution, and if they are then passed by two-thirds vote of the members elected to each house. (Va., Sec. 117.)

(c). Charters of cities may not be amended by special laws: Ala., Sec. 104 (18); Mo., IV, 53; Neb., III, 15; Pa., III, 7; S. C., III, 34, No. III; S. D., III, 53, No. 5; Tex., III, 56; Wash., II, 28, No. 8; W. Va., VI, 39 (Applies to towns of less than 2,000); Wis., Amend. IV, 31; No. 9; Utah, VI, 26, No. 12; Wyo., III, 27.

(d). In four states cities may not be organized without the consent of a majority of the electors within the district concerned: Mass., Amend. II (The town must have a population of 12,000); Pa., XV, 1 (The town or borough voting in favor of organization must have a population of 10,000); S. C., VIII, 2; Wyo., XIII, 2.

(e). The Legislature of Illinois may pass "all laws which it may deem requisite to effectually provide a complete system of local municipal government in and for the city of Chicago," but no such law can take effect until consented to by a majority of the legal voters of the city voting thereon at any general, municipal, or special election. Amend., adopted Nov., 1904.

(2) Classification of cities.

(a) When cities are classified all of the same class must have the same powers: Col., XIV, 13; Ky., Sec. 156; Mo., IX, 7; S. C., VIII, 1; S. D., X, 1; Wyo., XIII, 1.

(b). In several states the power of the legislature to classify cities is restricted: Cal., XI, 6. (Classification must be in proportion to population): Col., XIV, 13. (Number of classes limited to four): Idaho, XII, 1. (Classification must be according to population): Ky., Sec. 156 (Cities are divided into six classes: (1). Those having a population of 100,000 or more. (2). Those having 20,000 and less than 100,000. (3). Those having 8,000 and less than 20,000. (4). Those having 3,000 and less than 8,000. (5). Those having 1,000 and less than 3,000. (6). Those having less than 1,000); Mo., IX, 7. (Number of classes may not exceed four): N. Y., XII, 2. (Three classes are fixed by the constitution: (1). All cities having a population of 250,000 or over. (2). Cities having a population of 50,000 and less than 250,000. (3). All other cities.); S. Dak., X, 1 (Number of classes may not exceed four); Utah, XI, 5 (Classification must be in proportion to population.); Wash., XI, 10, Ibid: Wy., XIII, 1 (Number of classes limited to four).

(3) Streets and alleys.

(a) Streets and alleys may not be laid out, opened or altered under special laws: Cal., IV, 25; Col., V, 25; Ill., IV, 22; Ky., Sec. 59, Par. 16; La., Art. 48, Par. 4; Mo., IV, 53; N. Y., III, 18; N. D., Sec. 69, Par. 2; Pa., III, 7; S. D., III, 22, Par. 5; Tex., III, 56; Utah, VI, 26, Par. 12.

(b). Streets and alleys may not be vacated by special law: Ark., V, 24; Cal., IV, 25; Col., V, 25; Idaho, III, 19; Ind., IV, 22; Ia., III, 30; Ill., IV, 22; Ky., Sec. 59, Par. 16; Minn., IV, 33, Par. 11; Miss., Sec. 90, m.; Mo., IV, 53; Mon., V, 26; Neb., III, 15; Nev., IV, 20; N. J., VII, 11; N. Y., III, 18; N. D., Sec. 69, No. 2; Ore., IV, 23, Par. 8; Pa., III, 7; S. D., III, 23, Par. 5; Tex., III, 56; W. Va., VI, 39; Utah, VI, 26, Par. 12; Wyo., III, 27.

(4) Public utilities.

The construction of a street railway in any city may not be authorized by special law: Ill., IV, 22 (Applies to all railways); La., Art. 48, Par. 10; Miss., Sec. 90 (Applies to all railways).

(5) City officers.

(a) The legislature may not by special law create offices or prescribe the powers and duties of city offices: Cal., IV, 25; Idaho, III, 19; Mont., V, 26; N. D., Sec. 69, No. 32; Pa., III, 7; Tex., III, 56; Wyo., III, 27.

(b). The legislature is forbidden to pass a special law providing for the election of officers in cities: Neb., III, 15.

(c). Local officers or commissioners to regulate municipal affairs may not be appointed by special laws: N. Y., VII, 11.

(d). The fees, percentages or allowances of public officers may not be increased or diminished by special law during the term for which such officers are elected or appointed: Neb., III, 15; Utah, VI, 26, No. 18; Va., Sec. 63, No. 14.

(e). In Texas the legislature may not by special law regulate the fees or extend the powers and duties of aldermen. Tex. III, 56.

(6) Finance.

The debt, liability or obligation of any person or corporation to a municipal corporation may not be released or extinguished by special law: Idaho, III, 19.

A city may not be authorized to issue bonds or other securities by special law: Ala., Sec. 104, (17)..

(7) Miscellaneous limitations on special legislation.

(a) New York.—The constitution of the State of New York provides that there shall be three classes of cities and divides all laws relating to cities into general city laws and special city laws. General city laws are those relating to all the cities of one or more classes. Special city laws are those relating to one city or to less than all the cities of a class. After a bill for a special city law has passed both houses of the legislature it must be sent to the mayor of the city which it concerns. Within fifteen days after such a bill is submitted to him, the mayor must return it to the house in which it originated with his certificate stating whether the city has or has not accepted it. If the session of the legislature which passed the bill has ended the bill is returned to the governor. In cities of the first class the mayor acts for the city on such bills while in cities of the other two classes the mayor and legislative body act concurrently. However, the legislature may provide for the concurrence of the legislative body in cities of the first class. In case such a bill relates to more than one city it must be transmitted to the mayor of each city to which it relates and it will not be deemed accepted unless accepted by every such city. Upon acceptance by the city or cities the bill is subject to the action of the governor. Bills not accepted by the city or cities to which they relate, or which are not returned within fifteen days may again be passed by both branches of the legislature and are then subject to the approval of the governor as in the case of other bills. N. Y., XII, 2.

(b). Kentucky.—In Kentucky the legislature may not pass any special law to provide for taking the sense of the people of a city as to whether they wish to authorize, regulate or prohibit

therein the sale of liquors or to alter the liquor laws. Ky., Sec. 59, No. 27.

2. LIMITATIONS ON THE FINANCIAL AND TAXING POWER OF THE LEGISLATURE.

(1). The state legislature is prohibited from imposing taxes upon cities for municipal purposes: Cal., XI, 12; Col., X, 7; Idaho, VII, 6; Ill., IX, 10; Ky., Sec. 181; Mo., X, 10; Mont., XII, 4; Neb., IX, 7; Utah, XIII, 5; Wash., XI, 12.

(2). The property of municipal corporations may not be taxed: Ala., Sec. 91; Col., X, 4; Idaho, VII, 4; Mo., X, 6; Mont., XII, 2; Neb., IX, 2; N. C., V, 5; S. C., X, 4; S. D., XI, 5.

(3). The legislature may not release or extinguish the debt or liability of any person or corporation to a municipal corporation: Col., IV, 25; Ill., IV, 23; Ky., Sec. 52; La., Art. 59; Mo., IV, 51; Mont., V, 39; S. D., III, 24; Tex., III, 55; Utah, VI, 27; Wyo., III, 40.

(4). Laws may not be passed for the benefit of railroads, corporations or individuals which are retroactive in operation or which impose on the people of a municipality new liabilities in respect to transactions or considerations already past: Idaho, XI, 12; Mo., XII, 19; Mont., XV, 13.

(5). The credit of the state may not be given or loaned to any municipal corporation: Cal., IV, 31; Del., VIII, 4 (Except by two-thirds vote of all members elected to each house); Idaho, VIII, 2; Ia., VII, 1; Ky., Sec. 177; Mich., XIV, 6; Mo., IV, 45; Neb., XV, 1; N. Y., VII, 1; Ohio, VIII, 4; Pa., IX, 6; S. C., X, 6; S. D., XIII, 1; Tenn., II, 31; Tex., III, 50; Wash., VIII, 5; W. Va., X, 6; Wis., VIII, 3.

(6). The state may not assume the debt of any city: Ark., XII, 12 (Unless contracted to enable the state to repel invasion, etc.); Ga., VII, Sec. VIII, Part I (Unless contracted to enable the state to repel invasions, etc.); Ill., IV, 20; Ia., VII, 1 (Unless incurred in time of war for the benefit of the state); Ky., Sec. 176 (Unless contracted to defend itself in time of war, etc.); La., Art. 56; Mont., XIII, 4; Nev., IX, 4 (Unless incurred to repel invasion, etc.); Ohio, VIII, 5 (Unless created to repel invasion, etc.); Ore., XI, 8 (Unless created to repel invasion, etc.); S. D., XIII, 1 (Except when incurred in time of war in defence of the state); W. Va., X, 6; Utah, XIV, 6.

(7). The legislature may not grant or authorize the granting of public money or anything of value to a municipal corporation except for aid in case of public calamity: Mo., IV, 16; Tex., III, 51.

(8). Municipal corporations may not be authorized by the legislature to lend their credit or grant public money or anything of value to any individual, association or corporation: Ala., Sec. 94; Fla., IX, 10; Ga., Art. VIII, Sec. VII, Part I (Except for charitable purposes); Ky., Sec. 156 (Except for constructing and maintaining bridges, turnpike roads and gravel roads); Mo., IV, 47; N. H., Pt. 2nd, Sec. 5 (Corporations only); Ohio, VIII, 6; Ore., XI, 9; Pa., IX, 7; Tenn., II, 29 (Except with assent of three-fourths of the qualified voters); Tex., III, 52; Utah, VI, 31.

(9). The legislature may not authorize the cities to become stockholders in corporations, associations or companies: Ala., Sec. 94; Fla., IX, 10; Ga., Art. VII; Sec. VI, Part I; Ky., Sec. 179; Mo., IV, 47; N. H., Pt. 2nd, Sec. 5; Ohio, VII, 6; Ore., XI, 9; Pa., IX, 7; Tenn., II, 29 (Except upon assent of three-fourths of voters); Tex., III, 52; Utah, VI, 31.

(10). The legislature may not delegate power to any special commission, private corporation or association to levy taxes for municipalities: Ala., XI; Cal., XI, 13; Col., V, 35; Mont., V, 36; Pa., III, 20; S. D., III, 26; Utah, VI, 29; Wyo., III, 27.

(11). In Minnesota the legislature may not authorize any city to issue bonds or become indebted in aid of the construction or equipment of a railroad to an amount exceeding five per cent. of the valuation of the taxable property within such city. Minn., IX, 15.

(12). Municipalities may not be authorized to pay any claim created against them without express authority of law: Ky., Sec. 162; Utah, VI, 20 (Nor may the legislature pay such a claim).

(13). Cities, their inhabitants or the property therein may not be released from their proportional share of taxes for state purposes: Idaho, VII, 7; Ill., IX, 6; Mo., X, 9; Mont., XII, 6; Neb., IX, 4; Tex., VIII, 10.

(14). The legislature may not authorize the cities to impose taxes except for municipal purposes: Ark., II, 23; Fla., IX, 5; Tex., XI, 9.

(15). When a municipality is abolished, provision must be made for the protection of its creditors: Fla., VIII, 8.

(16). Payments by cities for the care, support and maintenance of charitable eleemosynary, correctional and reformatory institutions wholly or partly under private control may be authorized but not required by the legislature: N. Y., VIII, 14.

(17). Laws authorizing the borrowing of money by municipalities must state the purpose for which the money is to be used: Ky., Sec. 178.

3. LIMITATIONS ON THE LEGISLATIVE POWER OVER CITY OFFICERS.**(1) Creation of offices by special law.**

In the following states the legislature may not by special law create offices for cities or prescribe the powers and duties of city officers: Cal., IV, 25; Idaho, III, 19; Mont., V, 26; N. D., Sec. 69; Pa., III, 7; Tex., III, 56; Wyo., III, 27.

(2) City offices established by the constitution.

In a few states the constitutions limit the legislative power over city officers either by making specific provision for certain officers or by making it mandatory upon the legislatures to create certain offices for cities: Ky., Sec. 165 (Mayor, police judges and legislative boards); La., Art. 310 (For New Orleans—Coroner); Md., XI, 1, 2 (Mayor and two houses of city council); Mo., IX, 20 (Charters framed by cities, except St. Louis, must provide for a mayor and two houses of legislation); Minn., Amend. 1896, 1898 (Charters framed by the cities must provide for a mayor and a legislative body of one or two houses); Va., Sess. 119-121 (Commissioner of revenue; treasurer, city sergeant, mayor and city council of two branches. In cities under 10,000 the legislature may provide for one branch only).

(3) Choice of officers.

The mayor, police judges and members of the council of cities must be elected by the qualified voters thereof except that in towns of the 4th, 5th and 6th classes they may be appointed or elected as provided by law. Ky., Sec. 160.

When a city of the first or second class is divided into wards the members of the city council must be elected at large, but so selected that an equal proportion thereof reside in each ward. But when a city of the first or second class has two legislative bodies the smaller is to be elected at large. Other officers must be elected by the voters or appointed by the local authorities. Ky., Sec. 160.

The electors of the city of New Orleans have the right to choose the public officers charged with the exercise of police power and with the administration of the affairs of the city in whole or in part. However, this does not apply to boards or commissions appointed by the mayor with the consent of the council or elected by the council. La., 319, 320.

In Michigan judicial officers of cities must be elected by the people. Mich., XII, 14.

The Virginia constitution requires that in every city the treasurer, sergeant, mayor and members of the council shall be elected by the qualified voters. Va., Secs. 120, 121.

All city officers whose election or appointment is not provided for by the constitution must be elected by the voters thereof or

appointed by such authorities thereof as the legislature may designate. N. Y., X, 2; Wis., XIII, 9; Va., Sec. 120.

In all elections for city officers the person or candidate receiving the largest number of votes shall be declared elected. R. I., Amend., X, Sec. 1.

(4) Term of office.

Several state constitutions provide that the legislature may not create offices with terms exceeding a certain number of years. Since city offices are not, as a rule, established by the constitution these provisions act as a limitation on the legislative power to fix official terms: Cal., XX, 16 (4 yrs.); Ind., XV, 2 (4 yrs.); Kan., XV, 2 (4 yrs.); Ky., Sec. 170 (4 yrs.); Mo., IX, 14 (4 yrs.); Mont., XVI, 6 (2 yrs.); Nev., XV, 11 (4 yrs.); Ore., XV, 2 (2 yrs.); Tex., XVI, 30 (2 yrs.).

In Kentucky the terms of mayors and police judges are 4 years and of members of city legislative boards 2 years. The terms of all other city officers, if elected by the people, are fixed at 4 years. Ky. Sec. 160.

The Virginia constitution fixes the following terms for the officers named in all the cities of the state (a city in Virginia is an incorporated community having within defined boundaries a population of 5,000 or more): Commissioners of revenue, 4 years; treasurer, 4 years; city sergeant, 4 years; mayor, 4 years. Va., Secs. 119, 180.

The term of a municipal officer may not be extended beyond the period for which he was elected or appointed: Cal., XI, 9; Col., V, 30; Ill., IV, 28; Ky., Sec. 161; Mo., XIV, 8; Mont., V, 31; Pa., III, 13; W. Va., VI, 37.

(5) Salary and compensation.

City officers must be paid fixed and definite salaries: Utah, XXXI, 1; Wyo., XIV, 1.

The legislature may not increase or diminish the salary of an officer during the term for which he was elected or appointed: Ala., Sec. 68; Col., V, 30; Conn., Amend., XXIV; Ill., IX, 11; Ky., Sec. 161; Md., III, 35; Mo., XIV, 8 (Only increase is prohibited); Mont., V, 31; Neb., III, 16; Ohio, II, 20; Pa., III, 13; W. Va., VI, 38; Wis., IV, 26.

In the following states the legislature can grant no extra compensation to a public officer or agent after service has been rendered or a contract entered into: Ala., Sec. 68; Ark., V, 27; Cal., IV, 32; Col., V, 28; Conn., Amend., XXIV; Ga., VII, Sec. XVI, Part II; Ill., IV, 19; Ia., III, 31; La., 45; Md., III, 35; Mich., IV, 21; Miss., Sec. 196; Mo., IV, 48; Mont., V, 29; Neb., II, 16; N. Y., III, 29; Ohio, II, 29; Pa., III, 11; S. C., III, 30; Tex., III, 53; Utah, VI, 30; W. Va., VI, 38; Wis., IV, 26; Wyo., III, 30.

The legislature can not authorize a municipal corporation to grant extra compensation to any officer, etc.: Ala., Sec. 68; Cal., IV, 32; Conn., Amend., XXIV; La., 45; Mo., IV, 48; N. Y., III, 29; Tex., III, 53; Utah, VI, 30; Wyo., III, 30.

(6) State inspection officers in cities.

No state office may be continued or created in any municipality for the inspection or measuring of any merchandise manufacture or commodity: Cal., XI, 14; Pa., III, 27.

4. LIMITATION ON LEGISLATIVE POWER OVER PUBLIC UTILITIES AND PUBLIC IMPROVEMENTS.

(1) Street railways.

The legislature may not authorize the construction of a street railway in any city without the consent of the local authorities: Ala., Sec. 220; Col., XV, 11; Ga., III, Sec. VII, Part XX; Idaho, XI, 11; Ky., Sec. 163; N. D., Sec. 139 (Operation also prohibited without similar consent); Mont., XV, 12; Pa., XVI, 9; S. C., VII, 4 (Operation prohibited, etc.); S. D., X, 3 (Operation also prohibited, etc.); Va., Sec. 124; W. Va., XI, 5 (Operation prohibited); Utah, XII, 8 (Operation prohibited); Wyo., XIII, 4.

In New York no law may authorize the construction or operation of a street railroad unless the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of the street upon which it is proposed to construct or operate the road, is first obtained. If the consent of the property owners cannot be obtained the Appellate Division of the Superior Court in the department where the road is proposed to be constructed may, upon application, appoint three commissioners, who shall determine, after hearing all parties interested, whether the road ought to be constructed or operated. Such a determination when confirmed by the court may be taken in lieu of consent of the property owners. N. Y., III, 18.

No law may be passed by the legislature in Nebraska granting the right to construct and operate a street railway within any city without first requiring the consent of a majority of the electors thereof. Neb., XIII, 2.

(2) Telegraph and telephones.

Telegraph and telephone lines may not be constructed in any city without the consent of the local authorities: Ala., Sec. 220; Ky., Sec. 163 (Telephones specified only); N. D., Sec. 139 (Operation also prohibited without similar consent); S. C., VIII, 4 (Operation prohibited); S. D., X, 3; Utah, XII, 8 (Operation prohibited); Va., Sec. 124 (Telephone only); Wyo., XIII, 4.

(3) Electric light.

In like manner electric lighting plants may not be constructed in the cities of several states without the consent of the local authorities: Ala., Sec. 220; Ky., Sec. 163; N. D., Sec. 139 (Operation also prohibited); S. C., VIII, 4 (Operation prohibited); Va., Sec. 124; Utah, XII, 8 (Operation prohibited); Wyo., XIII, 4.

(4) Gas, water and steam heating plants.

By the constitution of two states, gas, water and steam heating plants may not use the streets, alleys or public grounds of any city without first obtaining the consent of the local authorities: Ky., Sec. 163; Va., Sec. 124 (And the Virginia constitution adds a similar provision regarding cold storage plants.)

(5) Term of franchise grants.

No municipality may be authorized or permitted to grant any franchise or privilege or make any contract for a term exceeding twenty years. Ky., Sec. 164.

(6) Public improvement and public property.

The legislature may not delegate to any special commission, private corporation or association power to make, supervise or interfere with any municipal improvement property or effect: Mont., V, 36; Pa. III, 20; S. D., III, 26; Utah, VI, 29; Wyo., III, 37.

IV. CONSTITUTIONAL PROVISIONS AS TO THE POWER OF THE STATE EXECUTIVE OVER CITIES.

The legislatures are, in the absence of constitutional provisions, the depositories of all governmental power within the states. Hence the governor and other state executive officers have only such powers as are conferred by the constitution or by statute. On the question of the power of the executive over cities the constitutions of the various states are practically silent. In Maryland alone is such power directly conferred. In that state the governor may remove the mayor of Baltimore, upon his conviction in court of wilful neglect of duty or misbehavior in office. Md., XI, 6. (For the power of the state executive over cities conferred by statute, see *infra* Part One, VI, 2.)

V. CONSTITUTIONAL LIMITATIONS ON CITY ACTIVITIES AND POWERS.

1. FINANCIAL LIMITATIONS.

(1) On municipal indebtedness.

(a) In many states the amount of debt which a city may incur is limited to a certain per cent. on the assessed valuation of the taxable

property within the municipality: Ala., Sec. 225 (Cities under 6,000, 5 per cent., except for construction or purchase of gas, electric light plants or sewers or street improvements for which 3 per cent. additional may be created. Cities over 6,000, 7 per cent., except for school houses, water works and sewers and special assessment bonds for street and sidewalk improvement); Col., XI, 8 (3 per cent. Debts acquired for furnishing water to the city excepted from the limitations); Ga., VII, Part I (7 per cent.); Ill., IX, 12 (5 per cent., but by Amend., Nov., 1904, Chicago may be authorized to become indebted to amount of 5 per cent. of full valuation of taxable property); Ind., XIII, 1 (2 per cent.); Ia., XI, 3 (5 per cent.); Ky., Sec. 158 (From 2 per cent. to 10 per cent. according to size of city); La., Art. 281 (10 per cent.); Me., XII (5 per cent.); Mo., X, 12 (5 per cent.); Mont., XIII, 6 (3 per cent., but the legislature may extend this limit if the question is in each case submitted to the tax payers concerned and the increase is necessary to construct a sewage system or procure a supply of water for the city, which must own and control the water supply and devote the revenues therefrom to the payment of the debt); N. Y., VIII, 10 (10 per cent. Debt for water supply may be additional); N. D., Sec. 183 (5 per cent. But this may be increased by an additional 3 per cent. by a vote of two-thirds of the electors of the city and any city may become indebted to the amount of 4 per cent., regardless of other indebtedness, for the purpose of constructing or purchasing water works or sewers); Pa., IX, 8 (7 per cent. Cities may be authorized by law to add an additional 3 per cent. thereto); S. C., VIII, 7, X, 5 (8 per cent. Aggregate debt from a number of political divisions upon a given territory may not exceed 15 per cent.); S. D., XIII, 4 (5 per cent.); Utah, XIV, 4 (4 per cent., but 4 per cent. additional debt may be created for supplying a city with water or other undertakings from which cities may derive a revenue); Wash., VIII, 6 (1½ per cent. But indebtedness may be raised to 5 per cent. with the assent of three-fifths of the legal electors voting at a special election, and cities may incur an additional 5 per cent. for providing themselves with water, light or sewer plants to be owned and controlled by themselves); W. Va., X, 8 (5 per cent.); Wis., XI, 3 (5 per cent.); Wyo., XVI, 5 (2 per cent. Cities may be authorized by law to increase debt to 4 per cent. Debts for supplying cities with water are excepted from the limitation.).

(b) Several state constitutions require that a city may not incur indebtedness without the assent of the voters thereof. Cal., XI, 18 (Two-thirds vote of the qualified voters. Special election); Col., XI, 8 (Majority of electors voting on the question who have paid property taxes within year preceding); Ga., VI, Sec. VII, Part I (Two-thirds vote. Special election); Idaho, VIII, 3 (Two-thirds vote. Special election); Ill., Amend., Nov. 1904 (Chicago, majority voting on the question at any general, municipal or special election); Ky.,

Sec. 157 (Two-thirds. Special election); La., Art. 211 (Majority vote, in number and amount, of taxpayers voting at special election); Md., XI, 7 (For Baltimore, majority of legal voters); Mo., X, 12 (Two thirds vote. Special election); Mont., XIII, 6 (Majority vote of taxpayers in case of incurring indebtedness which would increase total debt above 3 per cent. of assessed valuation of taxable property); N. C., VII, 7 (Majority of qualified voters); N. D., Sec. 183 (Debt above 5 per cent may not be incurred without concurrence of two-thirds of electors); Pa., IX, 8 (An increase of over 2 per cent in a city's indebtedness may not be incurred without assent of electors as provided by law); S. C., VIII, 7 (Majority vote. Special election); Utah, XIV, 3 (Majority of voters who have paid property taxes within the preceding year); Wash., VIII, 6 (For any debt above $1\frac{1}{2}$ per cent. of the value of the taxable property, three-fifth vote of legal electors. Special election).

(c) When debt is incurred by a city provision must be made at the same time for taxes sufficient to provide for the payment of interest and principal within a given number of years. Cal., XI, 18 (40 yrs.); Col., XI, 8 (15 yrs.); Idaho, VIII, 3 (20 yrs.); Ill., IX, 12 (20 yrs.); Ky., Sec. 159 (40 yrs.); La., Art. 281 (40 yrs.); Mo., X, 12 (20 yrs.); N. Y., VIII, 10 (20 yrs. on water bonds); N. D., Sec. 184 (No time limit); Pa., IX, 10 (30 yrs.); S. D., XIII, 5 (No time limit); Tex., XI, 5 (Sufficient tax to pay interest and create sinking fund of 2 per cent.); W. Va., X, 8 (34 yrs.); Wis., XI, 3 (20 yrs.).

(d). In a few states cities are directly prohibited from becoming liable for the debt of any individual, association or corporation: Idaho, VIII, 4, XIII, 4; La., Art. 58; Minn., IX, 15 (For the debt of a railroad to an amount exceeding 5 per cent. of city's taxable property).

(e). Cities may be authorized by general law to issue bonds but any such issue must first be approved by a majority of the qualified voters. Ala., Sec. 222.

(2) Limitations on municipal taxation.

(a) In the following states cities are forbidden by the state constitutions to levy taxes above a certain per cent. of the assessed valuation of their taxable property: Ala., Sec. 216 ($1\frac{1}{2}$ per cent. But Mobile and Montgomery levy $1\frac{1}{4}$ per cent., Birmingham and certain cities 1 per cent., and exceptions are made for several other cities); Ark., XII, 4 ($\frac{1}{2}$ of 1 per cent.); Ky., Sec. 157 ($\frac{3}{4}$ of 1 per cent. to $1\frac{1}{2}$ per cent., according to size of city); La., Art. 232 (1 per cent., unless for the support of schools, or for public improvements the title of which is to remain in the municipal corporation); Mo., X, 11 (Varies from $\frac{1}{4}$ to 1 per cent. for city purposes, according to size of city. A

variable rate is also established for school and county taxation. But St. Louis may levy in addition to municipal rate a rate not exceeding that which would be allowed for county purposes if city were part of a county. Amend., 1902); N. Y., VIII, 10 (In cities over 100,000 not over 2 per cent. in addition to that necessary to provide for the principal and interest of the city debt); Tex., XI, 4, 5 (Cities less than 10,000, $\frac{1}{4}$ of 1 per cent. Cities over 10,000, $2\frac{1}{2}$ per cent.); Wyo., XV, 6 (four-fifths of 1 per cent., unless for the payment of the public debt and interest thereon).

(b). A few state constitutions require that taxes levied by cities must be uniform with respect to persons and property. N. C., VII, 9; S. C., VIII, 6, X, 5; S. D., X, 10; Wash., VII, 9; W. Va., X, 9.

(c) In North Carolina no city may levy a tax except for necessary expenses unless assent has been given by the vote of the qualified electors. N. C., VII, 7.

(3) Miscellaneous financial limitations.

(a) Cities may not lend their credit to any company, association or corporation. Ark., XII, 5, XVI, 1; Conn., Amend., XXIV (To a railroad company); Del., VIII, 8; Idaho, VIII, 4; La., Art. 58; Md., XI, 7; Miss., Sec. 183; Mo., IX, 6; Mont., XIII, 1; Nev., VIII, 10 (Except to a railroad company); Neb., XIV, 2 (Unless the proposition has first been submitted to the qualified voters); N. Y., VIII, 10; N. C., VII, 7 (Unless by vote of majority of qualified voters); N. D., Sec. 185 (Unless by two-thirds vote of the electors); S. D., XIII, 1; Tenn., II, 29 (If the legislature authorizes cities to lend their credit a two-thirds vote of the electors must be required); Wash., VIII, 7; Wyo., XVI, 6.

(b). They are also prohibited in several states from becoming a stockholder in a corporation, association or company. Conn., Amend., XXIV (In a railroad company); Del., VIII, 8; Idaho, XII, 4; Ia., VIII, 4 (In banking corporations); La., Art. 58; Miss., Sec. 183; Mo., IX, 6; Mont., XIII, 1; Neb., XII, 1; Nev., VIII, 10 (Except railroad companies); N. Y., VIII, 10; N. D., Sec. 185; S. D., XIII, 1; Wash., VIII, 7; Wyo., XVI, 6.

2. CONSTITUTIONAL LIMITATIONS ON THE POWER OF CITIES OVER THEIR OFFICERS.

(Note:—The constitutional limitations applying directly to city officers or to the power of cities over their officers are comparatively few and unimportant. In some instances the constitutions provide that certain officers must be chosen. The effect of such provisions is to limit the power both of the legislature and the cities. But as has already been indicated (Ante, III, 3), there are not

many cases in which such an enumeration of city officers is made. Hence, so far as the constitutions are concerned, cities are practically unrestricted in their power to create offices for strictly municipal purpose and to determine the means by which officers so provided for shall be controlled. This, however, the cities have not been permitted to do in any considerable degree. By detailed provision for city officers in the charters the legislatures have left to the cities very little power either to create offices or to provide means for controlling their officers (See Part One, I, 1, and VI, 1). Such constitutional limitations as exist are given below.)

(1) Limitations on the power of cities to create offices.

Such limitations arise largely from the establishment of certain officers for cities by the constitutions. They are therefore limitations on the legislatures as well as on the cities. See, Supra, Pt. One, III, 3 (2).

(2) Methods of electing officers.

Supra, Pt. One, III, 3 (3).

(3) Term of office.

Supra, Pt. One, III, 3 (4).

(4) Salary and compensation.

Supra, Pt. One, III, 3 (5), and the following:

The fees of no executive or administrative officer of a municipality may exceed \$10,000 per year, exclusive of salaries paid to necessary deputies. Mo., IX, 13.

(5) Persons prohibited from holding city office.

No officer, employe, attorney or agent of any corporation, association or company doing business under any municipal franchise or charter is eligible to, or permitted to hold, any municipal office in the municipality granting such franchise. Utah, XII, 17.

In Illinois any person in default as collector or custodian of public money or property of a municipality is not eligible to hold office therein. Ill., IX, 11.

No person may at the same time hold a state office and a municipal office. Mo., IX, 18 (In cities over 200,000); Ky., Sec. 165.

No person can at the same time hold two municipal offices. Mo., IX, 18; Md., XI, 5 (Mayor of Baltimore so restricted).

In Virginia cities the treasurer is not eligible for more than two consecutive terms and he may not act as deputy for his immediate successor. Va., Sec. 120.

(6) Use of city funds by officers.

In several states it is declared a felony for a city officer to make a profit out of city money which may be in his possession or to use such money for any purpose not authorized by law. Cal., XI, 17; Idaho, VII, 10; Ky., Sec. 173; S. D., XI, 11; Wash., XI, 15; Wyo., XV, 8.

Moneys, assessments and taxes coming into the hands of any city officer and which have been collected for the use of the city must immediately be deposited with the treasurer or other legal depository, to the credit of the city. Wash., XI, 15.

Money belonging to the city, unless otherwise provided by the constitution, must, whenever practicable, be deposited in a national bank incorporated under the laws of Wyoming. Wyo., XV, 7.

3. CONSTITUTIONAL LIMITATIONS ON THE POWER OF CITIES OVER PUBLIC UTILITIES.**(1) Power to regulate charges must be reserved.**

In California, cities which do not own their lighting plants or water works may not grant the use of their streets to private corporations for supplying water or artificial light unless the municipal government is given the right to regulate the charges therefor. Cal., XI, 19.

(2) Term of franchise grants limited.

Alabama cities having a population of over 6,000 cannot grant the right to use their streets, alleys, avenues or public places for the construction or operation of any public utility, except railroads other than street railroads, for a longer period than 30 years. Ala., Sec. 228.

The Kentucky constitution forbids any city to grant a franchise or privilege or make any contract in reference thereto for a term exceeding 20 years, and before granting any franchise the city must, after advertising, receive bids therefor publicly and award the franchise to the highest and best bidder. The city may reject any and all bids. Ky., Sec. 164.

The Virginia constitution prohibits franchise grants of longer than 30 years, and provides that before granting any franchise, except to a trunk railway, cities must, after advertising, receive bids therefor publicly, and must then act as may be required by the law. Va., Sec. 125.

(3) Acquisition of public utilities must have the consent of taxpayers.

In South Carolina cities may purchase, construct and operate water works and lighting plants, providing such construction or purchase is assented to by a majority vote of all electors who have paid all state, county and municipal taxes for the previous year. S. C., VIII, 5.

(4) Water works, etc., owned by the city may not be disposed of.

The constitution of Utah prohibits cities from alienating or disposing of any water works, water rights, or source of water supply owned or hereafter acquired by them. Such water works, water rights or sources of water supply must be preserved, maintained and operated by the municipalities for supplying their inhabitants with water at reasonable rates. Utah, XI, 6.

(5) Cities may not pay for value of franchises.

The constitution of Virginia provides that in case of the taking over of any public utility by a city the grantee is not entitled to payment for the value of his franchise. Va., Sec. 125.

(6) Employes on public work.

Cities are forbidden in Wyoming to employ any person on or in connection with any municipal works or employment who is not a citizen of the United States or has declared his intention of becoming a citizen. Wyo., XIX, Labor on Public Works, 1.

VI. STATE CONTROL OVER CITY GOVERNMENTS.**1. LEGISLATIVE CONTROL.****(1) United States.**

"The city has ceased to be what it once was, merely an organization for the satisfaction of local needs, and has become as well an important member of the General State Government System. Our system of centralized administration did not permit of the exercise by any state administrative authority of any control over the city, even where it was thus acting as an agent of the state. It was necessary, therefore, if any central control at all should be exercised, that it should be exercised by the legislature, * * * The conditions, economic and otherwise, upon which city governments are based, are continually changing. As a result of these changing conditions American cities are forced to apply continually to the legislature for new and extended local powers. * * * The necessity of changing and extending local powers has brought about an immense amount of special legislation, and the legislature, accustomed to regulate by special act municipal affairs on the proposition of the various cities, and obliged to exercise through special legislation the necessary control over matters attended to by cities which are of vital interest to the state as a whole, has got into the habit of passing special legislation with regard to purely municipal matters of its own motion, not only without the consent of the local people, but often against their will, for reasons in no way connected with their local welfare." Goodnow, City Gov't in U. S., p. 73, et seq.

To indicate in detail the forms which legislative control has taken in the United States would be to enumerate practically every detail of city government, from the general structure of the city organization to the salary of firemen, or the right of the city to alter the grade or width of a street. The various constitutional provisions by which the people of different states have tried to limit the undoubted legal right of the legislature, in the absence of such provisions, to interfere even in purely local affairs, are set forth in Pt. One, I, *supra*.

(2) Legislative control in Great Britain.

The city in Great Britain, like that in the United States, exercises only those powers specially granted to it (See Part I: General Legal Position of the City); and the power of Parliament to control its action is absolute, whether those actions are of general or of purely local interest. The exercise of that power of control by Parliament has, however, not been permitted to remain the haphazard matter it has usually been in American states, but has been reduced to an orderly system, intended to protect the rights of the locality. Provision is made for notice to the local authorities affected by any private bill and for free opportunity to be heard before the Parliamentary committee. The procedure is regular, careful and public.

A considerable part of the burden of private legislation has been removed from Parliament by the system of provisional orders. These orders are, roughly speaking, ordinances issued by administrative authorities (Local Government Board, Board of Trade, Board of Education, etc.), which acquire the force of Acts after having been laid before Parliament; automatically, if there is no opposition, but with all the procedure of separate private bills if they are opposed.

2. ADMINISTRATIVE CONTROL.

(1) United States.

The great extension of legislative control in the United States was due, in large part, to the fact that the decentralized character of American state administration did not permit of any other form of control. It has been observed, however, that the administration of many states has shown a marked tendency toward centralization. There are indications that the desire to limit the extent of legislative control, and to extend the sphere of municipal home rule, is being furthered at the present time by the substitution of administrative control. The movement has not yet, of course, reached proportions at all comparable to those it has attained in Europe, but it is unquestionably growing. The following enumeration does not pretend to exhaust all the instances of administrative control in the United States. It is be-

lieved, however, that it includes all the important types and the most significant individual cases.

(a) *Municipal officers.*

With the exception of the city of Washington, and of certain boards, such as those of police and health, in a few cities, to be given below, most municipal officers in the United States are either elected or appointed locally. In some states (New York, X, 2; Michigan, XV, 14; Wisconsin, XIII, 9; Kentucky, Sec. 160; Virginia, Sec. 120; Pennsylvania, III, 20; Colorado, V, 35; Montana, V, 36; Wyoming, III, 37; California, XI, 13) the constitutions contain certain provisions, in various forms, preventing interference by the state with this power of local election and appointment; in some states, notably Michigan, these provisions are so construed as very effectually to check the power of the legislature over cities.

Municipal officers may, however, be removed by central administrative authorities in several instances.

Michigan.—"The governor * * * shall also remove all * * * city or village officers, chosen by the electors of any city or village, when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer is incompetent to execute properly the duties of his office, or has been guilty of official misconduct, or of wilful neglect of duty," or of certain other grave faults. It is required that sworn charges shall first be filed with the governor, with a statement from the prosecuting attorney of the county in which the office is that, in his opinion, the case demands investigation. Compiled Stats. of Michigan, 1897, Sec. 1159.

New York.—The charter of the city of New York provides that the mayor may be removed by the governor, for cause after inquiry; the inquiry may be held either by the governor himself, or, on his direction, by the attorney general. After charges against the mayor have been filed with the governor, he may suspend the mayor pending investigation for any period not exceeding thirty days. N. Y. Laws, 1901, Chap. 466, Sec. 122.

Similarly the governor may remove any borough president. (Sec. 382.) The police commissioners "may, whenever, in the judgment of the mayor of said city or the governor, the public interests shall so require, be removed from office by either, and shall be ineligible for reappointment thereto." Sec. 270.

Provision for the removal of the mayor by the governor is also made in the charters of the cities of Yonkers and Poughkeepsie.

Ohio.—"In case of misconduct in office, or any gross neglect of duty, gross immorality or habitual drunkenness of any mayor,

the governor of the state shall remove him from office, upon notice and after affording the said mayor a full and fair opportunity to be heard in his defense." The governor may suspend a mayor pending investigation for any period not exceeding thirty days. The statute declares that the governor's decision, after the hearing, shall be final. Law for Municipalities, 1902, Sec. 226.

In Alabama (Const. Sec. 175) mayors, and in Illinois (Hurd's Rev. Stats., 1905, Ch. 38, Sec. 208) any person holding a municipal office, may, for certain specified causes, be removed from office by the courts.

Pennsylvania: Any municipal officer may be impeached before the Court of Common Pleas of the proper county, upon complaint of not less than 20 freeholders. If the court finds reasonable ground for proceeding, after the accused has been cited to appear and answer, the court appoints a committee of five competent and reputable citizens, who shall have full authority to examine the books of the office, and any papers found there, and to examine witnesses under oath. If three members of the committee report to the Court of Common Pleas that the charges are well founded, the accused shall be tried by the select council of the city, presided over by the president judge of the court. If the accused is found guilty on any of the specifications, judgment accordingly shall be entered by the Court of Common Pleas, which shall declare the office vacant.

(b) *Civil service.*

Massachusetts.—The Massachusetts Civil Service Commission, appointed by the governor, has complete authority over the merit system in the cities of the state. It examines applicants and certifies eligible candidates to appointing officers who notify it of a vacancy. The commission has power to stop the payment of salary to any person appointed in violation of the civil service rules. Revised Laws, 1902, Ch. 19.

New York.—In New York city a municipal civil service commission is appointed by the mayor, but it is subject to effective control by the state civil service commission. The rules made by the city commission take effect only when approved by the state commission. The city commission is required to report annually to the state commission, and at such other times as the state commission requests. The state commission may, by a unanimous vote, rescind any rule of the city commission, which does not carry out the provisions of the Civil Service Act. It may also, by a unanimous vote, and with the approval of the governor, remove any member of a municipal commission, after charges and a hearing; and a vacancy so made, or by the resignation of a city commissioner pending investigation, is filled by the state commission. If the

mayor of a city fails to appoint a commission, the state commission appoints one in his place; and if the city commission fails to make rules to put the civil service laws in operation, the state commission draws up such rules itself. Heydecker's General Laws, N. Y., Ch. 3.

(c) *Police.*

Police forces in the United States are generally appointed and maintained by local authorities. In no case is there any effective administrative control by the state over the police department locally appointed. There are, however, a number of city police authorities appointed directly by the state.

Baltimore.—A Board of Police Commissioners is elected by the general assembly of Maryland. It is composed of three members, who must be citizens of Baltimore; the term of office is six years, one member retiring every second year. The expenses of the department are met by a police-tax in the city; the amount of money certified by the board as necessary for police purposes must be included in the city budget without change. Baltimore City Charter, Sec. 740.

Boston.—A Police Commission of three citizens of Boston is appointed by the governor for a three-year term. All the commissioners must not be of one political party. Mass. Acts of 1885, Ch. 323.

St. Louis.—The Board of Police Commissioners consists of the mayor and four residents of St. Louis appointed by the governor for a four-year term. Mo. Laws, 1899, p. 51.

Indiana.—All cities in Indiana with a population between 10,000 and 35,000 (of which there are eleven) have a board of Metropolitan Police Commissioners, consisting of three residents of the city appointed by the governor for a three-year term, one retiring each year. The salary is fixed by the governor, but it must not exceed \$600. It is paid by the city. Burns Annotated Stats., 1901, Sec. 3717.

✓(d) *Health.*

Detroit.—A board of health of four members is appointed by the governor for a term of four years. Members must be electors and freeholders in Detroit. The expenses of the department are paid by the city, but the estimates of the board may be altered at discretion of city council. Detroit City Charter, Ch. 17.

Louisiana.—Parish and Municipal Boards of Health "act under the supervision and advice of the State Board of Health," and "shall in all health and sanitary measures which they may adopt

be auxiliary to and act in harmony with the State Board of Health, and shall make reports monthly to said State Board of Health," and furnish such other information as the State Board may require. For Shreveport and Baton Rouge, the governor appoints three members and the municipal council two members of the local boards. La. Revised Laws, 1904, p. 1444.

(e) *Finance.*

Ohio.—An act of 1902 creates a bureau in the department of the auditor of state, to be known as the bureau of inspection and supervision of public offices. The state auditor is at the head, and appoints three deputies and an indefinite number of examiners. The bureau "shall formulate, prescribe and install a system of accounting and reporting * * * that shall be uniform for every public office and every public account of the same class." The auditor, through the bureau, shall require a full report of every taxing district and public institution, upon the transactions of the fiscal year, prepared in accordance with the forms and methods prescribed by the bureau.

"Such reports shall contain an accurate statement, in summarized form, of all collections made by or receipts received by the offices from all sources, all accounts due the public treasury, but not collected, and all expenditures for every purpose, and by what authority authorized, and also:

(a) A statement of all costs of ownership and operation and of all income of each and every public service industry owned and operated by a municipality.

(b) A statement of the entire public debt of every taxing district to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, the provisions made for the payment of the debt, together with such other information as may be required by the auditor of the state."

Comparative statistics compiled by the bureau from these reports are to be published annually.

The auditor, a deputy inspector and supervisor, and every state examiner has power to examine the financial affairs of any public officer or office; and such an examination shall be made at least once each year. The financial condition of every taxing district, the compliance with state laws, and the requirements of the bureau, and with the ordinances of the district itself, are to be examined into. Power is given to administer oaths, to require testimony, and to punish disobedience or refusal to testify. If the examination discloses any legal delinquency, a report of the fact is to be made to the prosecuting officer of the district; if he fails to take action, the auditor himself may initiate proceedings and prosecute them to a final conclusion in the courts.

The expense of the bureau is defrayed by the counties in proportion to population; the cost of audits of local accounts is borne by the district concerned. Ohio Laws, 1902, p. 511.

Wyoming.—The state examiner has powers of audit and supervision over the finances of all municipal corporations in the state. It is his duty to order and enforce a correct and uniform system of bookkeeping and to instruct the proper officers in the performance of their duties as keepers of accounts. He has power to expose false or erroneous systems of bookkeeping. He shall require as often as he deems necessary a verified and complete statement of accounts from treasurers of all counties and cities. He shall, on request of any city council, make a thorough examination of the books, accounts and vouchers of the officers of the city, and shall report the result both to the city council and to the governor. The governor may publish any report, at his discretion. The examiner has power to summon witnesses and compel testimony. He must report on the finances of each city to its mayor annually; but his annual report to the governor need not contain statistics of cities. In case a defalcation is discovered, the examiner must report the fact to the corporate authorities, who may suspend or remove the treasurer; whereupon the examiner may take charge of the books and of the office until a successor is appointed or elected. Revised Stats. Wyoming, 1899, Ch. 9.

Minnesota.—A public examiner exists with powers similar to those prescribed in the Wyoming statute, but restricted to state and county officers; except that by special law the city of St. Paul has been placed under his supervision. Revised Laws, 1894, Sec. 1583.

A law of 1895 provides: "The comptroller of each city shall annually, within sixty days after the close of the fiscal year, report to the state auditor in writing, showing the receipts and disbursements on account of each fund and in each department of the city, and the condition of each of the city funds and the amount of bonds outstanding at the close of such fiscal year." The auditor is required to furnish blanks upon which the reports shall be made. Minn. Laws, 1895, Ch. 8, Sec. 80.

Ontario.—The treasurer of every municipality shall report annually to the secretary of the bureau of statistics at Toronto, on schedules or forms furnished by him and approved by the lieutenant governor in council. (Consolidated Municipal Act, 1903, Sec. 293.)

The council of the city of Toronto is required to appoint two auditors, who shall audit the treasurer's accounts and transmit a copy of their report to the secretary of the bureau of industries at Toronto. They are required to make a special report of any expenditures made contrary to law. Ib., Sec. 300.

* * * * *

(Note.—A charter provision to secure uniformity of municipal accounting and to provide for state supervision of municipal finance is given below. It is the form adopted by the National Municipal League in the municipal corporations act of its Municipal Program.—Ed.)

"Art. II, Sec. 15. *Uniform methods of city accounting.*—Every city shall keep books of account. It shall also make stated financial reports at least as often as once a year to the * * * in accordance with forms and methods prescribed by him, which shall be applicable to all cities within the state. Such reports shall be certified as to their correctness by said * * * or by some competent person or persons appointed by him; they shall be printed as a part of the public documents of the state, and submitted by the * * * to the legislature at its next regular session. Such reports shall contain an accurate statement, in summarized form and also in detail, of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a statement in detail of the debt of said city at the date of said report, and of the purposes for which such debt has been incurred, as well as such other information as may be required by * * *. Said * * * shall have power by himself, or by some competent person or persons appointed by him, to examine into the affairs of the financial department of any city within this state. On every such examination inquiry shall be made as to the financial condition and resources of the city, and whether the requirements of the constitution and laws have been complied with, and into the methods and accuracy of the city's accounts, and as to such other matters as the said * * * may prescribe. The * * * and every such examiner appointed by him, shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance and attendance of any such person for the purpose of any such investigation and examination, and the production of books and papers. Wilful false swearing in such examinations shall be perjury, and punishable as such. A report of each such examination shall be made, and shall be a matter of public record in the office of said * * * " (Municipal Program, pp. 199, 200.)

(f) *Charities and corrections.*

In most large American cities charities are a city function. Of the ten largest cities, only Buffalo and Chicago do not administer charities; of the next ten, three (Detroit, Milwaukee, and Jersey City) have county administration; in Washington, charities, like all other functions, are under centrally appointed officers. In some states, notably Massachusetts, New York, and Wisconsin, there is strong central control of local charitable organization.

Massachusetts.—The State Board of Lunacy and Charity audits the accounts of all towns for the care of state poor, and investigates charges made by towns for aid to state poor, through special agents. The state board is required also to visit all dependent children supported by cities and towns, and investigate their condition; and the state board may act in place of town and city overseers if the latter fail to comply with the law concerning pauper children. The state board must also inspect all places in which insane paupers are kept, a duty which practically requires the inspection of most almshouses. A condensed report of the state agent on the charitable institutions of every city and town is published in the annual report of the state board. (Rev. Laws, Mass., Ch. 84.)

New York.—The care of the insane is assumed directly by the state. Over all other charitable activities the State Board of Charities exercises supervision. It is the duty of the board to inspect and investigate, and to call the attention of the local authorities to abuses or evils in local administration. General duties of advice and assistance to institutions under its supervision are specified in the law; and, in addition, no almshouse may be built except on plans approved by the state board. The board also makes rules for the treatment and reception of inmates of private institutions supported in part by public aid; and the right to receive such aid is made dependent on compliance with these rules. (Heydecker's Gen. Laws, Ch. 26.)

Wisconsin.—The State Board of Control, besides having direct charge of the state charitable and correctional institutions, has power to investigate all other institutions of a similar nature. To this end they have power to compel the attendance of witnesses and the production of evidence. Their jurisdiction includes county charitable institutions and jails, city prisons, police stations and houses of correction. They have power to condemn unsafe or unsanitary jails and lockups. (Wisconsin Statutes, 1898, Sec. 564.)

(g) *Liquor laws.*

The desire to compel a uniform enforcement of the state liquor laws in local districts has been one of the most powerful agents in bringing about such central control of local administration as exists in America. It has taken the two main forms of direct administration by state officers, and the creation of various devices to compel officers locally elected to obey state law. In several states state officers are given power to supervise the local license issuing authority—usually, in these cases, not city, but county officers. In Tennessee licenses are issued by the county clerk; the comptroller of the treasury may employ special agents to investigate the books of local collectors. In Alabama,

the probate judge issues licenses, and must report and remit regularly to the auditor under pain of impeachment. In Mississippi, licenses are issued by city officers, but the state revenue agent investigates delinquencies of local officers in the interest of the collection of the state taxes. In Texas, again, licenses are issued by county clerks; and the state revenue agent, under direction of the governor, investigates and institutes legal proceedings against delinquent local officers.

In Boston, the police board, appointed by the governor, is intrusted with the duty of issuing licenses. In St. Louis, an excise commissioner, appointed by the governor and holding office during his pleasure, issues all licenses; the law provides for the co-operation of the centrally appointed police authorities. In New York, the liquor tax is collected by county treasurers, except in Buffalo and New York, where special deputy commissioners are appointed by the state commissioner of excise, to hold office during his pleasure. The state commissioner must also appoint not more than sixty "special agents" who "shall be deemed the confidential agents of the commissioner, and, as required by him, investigate all matters relating to the collection of liquor taxes and penalties under this act, and in the relation to the compliance with law by persons engaged in the traffic in liquors." Special attorneys may also be appointed to conduct prosecutions independently of the local prosecuting officers, and both county treasurers and district attorneys may be removed by the governor for delinquencies under this act.

See Sites: *Centralized Administration of Liquor Laws* (Columbia University Studies, Vol. X, 1899), for a thorough discussion of the whole subject.

(h) *Education.*

City school officers are appointed by state authorities in only a few cases. In New Orleans, eight out of twenty members of the city board are appointed by the governor. In Virginia, the State Board of Education appoints city superintendents and defines their duties. Each city has also a board of trustees elected by the council of the city.

State control over examinations for teachers is found in more than twenty states. In New York there is a permanent board of examiners, who have complete control over the examinations of the teachers throughout the state, and who mark all papers directly. In Indiana, the state superintendent furnishes uniform questions to all county superintendents, for the examination of teachers; and these papers may, at the request of the candidate, be graded by the state superintendent, who may then issue a state certificate.

In several states the grant of state aid to local schools is made the basis of an inspection by state authorities. In New York, for example, the commissioners of education apportion the school fund among the various districts, and conduct examinations of pupils,

primarily for the purpose of determining the right to state aid. The requirement of a reasonable standard of excellence as a prerequisite to state grants does not, of course, affect the cities so much as the rural districts, since city schools are usually well above the standard set. The examination of pupils, however, exerts a strong influence on the course of study and the character of the teaching.

Another form of control is the prescription of uniform text books, under the supervision of the State Board of Education or the state superintendent. An extreme form is found in the state contract system in Indiana. The State Board of Education determines the texts to be used, contracts for the supply and supplies the books to the county superintendents on their requisition.

Finally, it may be noted that the administration of compulsory education laws have led in one instance to central administrative control. In Connecticut, "the State board of Education may appoint agents, under its supervision and control, for terms of not more than one year. * * * The agents so appointed may be directed by said board to enforce the provisions of the law requiring the attendance of children in school, and to perform any duties necessary and proper for the execution of the duties and powers of the board." School Law, 1896, Sec. 15.

See Webster: Recent Centralizing Tendencies in State Educational Administration (Columbia University Studies, VIII, 1897).

(i) *Public utilities.*

Massachusetts.—In Boston and the surrounding towns the construction and management of sewers and control of the water supply is in the hands of a Metropolitan Commission appointed by the governor.

In Massachusetts there is yet another important development in administrative control of local public matters, in the supervision of street railways and gas and electric light companies through state commissions.

The Board of Gas and Electric Light Commissioners consists of three members appointed by the governor, with the consent of the council, for a term of three years, one retiring each year. The commission has general supervision over all the gas and electric light companies in the state and over all municipal plants. It has wide powers of investigation: it receives annual reports from all plants, and prescribes not only the forms of these reports, but also the method of keeping books and accounts. It must report any violations of law which it finds to the attorney general. On complaint of the mayor or aldermen of any city, or the selectmen of any town, or of twenty consumers of any company, in regard to the quality or price of service, the commission may, after a public hearing, order an improvement of the quality, or a reduction in the price. Local authorities may grant the

use of streets to new companies, but if a competing company is either excluded or admitted, the aggrieved party (either the new or the old company) may appeal to the commission; and the decision of the commission, given after a public hearing, is conclusive.

Companies must secure the approval of the commission for any new issue of stocks or bonds; and the commission may, on investigation, order the capital stock to be reduced. New stock cannot be issued to stockholders at less than market price; and the market price is determined by the commission.

Municipalities are forbidden to charge more for gas or electricity than will produce 8 per cent. interest on the net investment, nor can they charge less than actual cost, except by consent of the commission.

The State Railroad Commission exercises over street railroads powers similar to those of the corresponding commission over gas and electric light companies. Every such corporation is required to keep its books and accounts in a uniform manner, upon the system prescribed by the board. Annual sworn reports must be submitted, which shall contain copies of all leases and contracts made during the year, as well as full financial statements. Locations are granted in cities by city authorities, subject to the approval of the commission. The commission must approve of any issue of stocks or bonds and authorize any leases or consolidations. It may, upon complaint, as in the case of gas and electric light companies, investigate rates of fare and order reductions.

See New York City Charter
New York.—A Commission of Gas and Electricity was created in 1905, consisting of three members appointed by the governor for a term of six years, one member retiring every two years. The commission has the following general powers:

1. General supervision of all companies having authority to maintain wires or pipes in, over, or under the streets of any municipality for the purpose of furnishing gas or electricity.

2. Power to investigate from time to time the quality of gas supplied by companies or municipalities; to examine the methods employed in supplying gas or electricity, or in transmitting them, and to order improvements.

3. To fix the standard and purity of gas for lighting, not less than that fixed by law, and to fix the pressure, if it is not fixed by law.

4. To prescribe methods of accounting.

5. To examine all companies and municipalities under its supervision, keep informed as to their methods, and see that their property is operated for the accommodation of the public, and in compliance with the law, and with the terms of their franchises.

6. To require of every company an annual report showing: (1) The amount of authorized stock, and the amount issued and outstanding; (2) The amount of bonds authorized, issued and outstanding; (3) Its receipts and expenditures for the year; (4) Amount of dividends and bond interest; (5) The amount of salaries and wages; (6) A full description of the property and franchises; (7) Such other facts as may be required by the commission.

7. To make an annual report showing: (1) The result of investigations conducted and reports of companies received; (2) Recommendations as to modifications in the law governing gas and electric companies; (3) Facts concerning methods of manufacture, sale and distribution; (4) Suggestions as to better protection of public interests and health in these businesses; (5) Proceedings of the commission.

8. To enter and inspect, either through its members or inspectors authorized by it, the plants of companies under its supervision.

9. To examine books and affairs, and compel the production of books and papers.

10. To subpoena witnesses, etc.

11. To adopt rules for procedure before it.

The commission has power, also, to provide for the inspection of gas and electric meters. A new company must secure the approval of the commission before it can engage in business. The commission may inquire into the necessity of the service, and the good faith of the company; if it finds the territory proposed to be occupied already well served, it may refuse its approval. Municipalities before engaging in these businesses, except for their own use, must secure similar approval. Any new issue of stocks and bonds, or any transfer of a franchise, must be approved by the Commission. An appeal lies from a refusal to make any approval required, from the Commission to the appellate division of the Supreme Court.

Upon complaint of the mayor of a city, or not less than 100 customers, the commissioners must investigate the quality and price of the service, giving due notice and hearing to all interested. The Commission may thereupon order an improvement in service or a reduction in price; and its decision shall hold for three years and until a further change is ordered. Appeal lies as above provided. (N. Y. Laws of 1906, Ch. 737.)

(j) *Miscellaneous.*

Parks.—In Massachusetts a Metropolitan Park Commission has charge of the parks in a district which includes, besides Boston proper, eleven cities and twenty-five towns.

Parks in Chicago are administered by three separate boards, two of which (Lincoln Park and West Park) are appointed by the governor, and other (South Park) by the judges of the Circuit Court of Cook County.

Washington.—The city of Washington is, so far as its relations to a superior administration is concerned, so unique as to require separate description.

The whole government is under the control of three commissioners, appointed for a term of three years at a salary of \$5,000. Two of them are nominated from civil life by the President, and confirmed by the Senate of the United States. They must be citizens of the United States, and must have resided in the District for three years preceding their appointment. The other commissioner is assigned by the President from the Engineer Corps of the Army. The three commissioners have power of appointment and removal of practically every officer in the District. They have large powers of police regulation, although the legislative power proper is in the Congress of the United States. They divide between themselves the direct supervision of practically every department of city administration, the actual division of labor being made by each new board to suit its own convenience, the only practically constant factor being the army officer, who usually has charge of all matters of an engineering nature.

2. ADMINISTRATIVE CONTROL IN GREAT BRITAIN AND CANADA.

✓ (a) *Great Britain.*

Powers of supervision over English cities are given to several central administrative authorities, of which the most important is the Local Government Board. The principal of these powers of central control were developed to insure the proper administration by local authorities of matters important to the whole country. The main fields of this sort are the poor-law administration, the public health, local constabulary or police, and elementary education. In addition, partly to insure the ability of local authorities to perform their duties to the state, and partly to prevent unwise action on the part of municipalities for their own sake, a considerable control over local expenditure and finance, and an extensive supervision over local accounts (with the important exception, however, that the accounts of boroughs outside of London are not centrally audited) has been developed. This central control is exercised in several ways, of which the following are the most important:

(a) Many local activities, especially in matters of police and finance, must be sanctioned and approved by central authorities, such, for instance, as the undertaking of schemes under the Artisans and Laborers Acts, or of municipal gas works or tramways; or the incurring of any debt, the sale of corporate property, etc.

(b) Localities may be compelled, by order of central authorities, to perform duties imposed by the poor laws, the public health acts, and the education acts; and temporary commissions may be appointed, in case the local authority persists in its neglect of duty, and the cost may be assessed on the delinquent authority.

(c) Central aid is granted, especially in education and police, on the basis of the character of the local service as determined by central inspection, and of certificate that the required standard of efficiency is maintained.

(d) The accounts of county councils and of the boroughs of London are audited by district auditors appointed by the local government board, and annual reports of all boroughs must be filed with the board.

The Local Government Board is constantly made use of by Parliament as the authority to supervise the application of general acts to specific localities, and to direct the assembling and starting of new local machinery. Recent instances in point are the important powers given the Local Government Board by the Metropolitan Water Act of 1905 and the temporary Unemployed Workmen Act of the same year. (See Maltbie, Eng. Local Govt. of To-day.)

There are separate local government boards for Scotland and Ireland, with powers similar to those of the English board.

(b) *Canada (Ontario).*

There was created in Ontario in 1906 a Railway and Municipal Board, composed of three members appointed by the lieutenant governor and holding office during pleasure. The board has power to hear applications: (a) complaining that a railway company (or a street railway company) or a municipality has failed to do anything required of it by law; or has done anything in violation of law; (b) requesting the board to issue any orders which it has power to issue. It may also act on its own initiative. It has power to issue orders or prohibitions concerning all matters under its control. It has full jurisdiction to determine all questions of law and of fact, and has all the powers in regard to evidence and testimony and has the execution of its orders, which are vested in the High Court of Justice. Its decisions on questions of fact are conclusive. Provision is made for making the decisions of the board orders of the High Court of Justice.

The board has full powers of entry and inspection, of administering oaths and of compelling testimony. Its powers over municipalities are as follows:

It has all the powers conferred by the consolidated municipal act of 1903, on the lieutenant governor and council regarding (a) the addition to or separation from a municipality of any territory, (b) annexations, (c) alterations of boundaries, (d)

the approval of by-laws relating to finance, debentures, sinking funds, or the creation of debts in cases where the approval of the lieutenant governor was previously required, (e) the approval of by-laws relating to public highways, streets, etc., street or electric railways, gas or water works, or any other industry or concern commonly known as a public utility, in cases where the approval of the lieutenant governor and council was previously required. The Board may also make requirements in the interests of the safety of life and property of any street railway, telegraph, telephone, electric light, heat or power company.

It must, when required to do so by the lieutenant governor and council, the legislature, or any committee thereof, make investigations into any facts upon which they wish information, to determine the propriety of any new law regarding railroads (including street railroads) or any private or special law relating in any way to a municipal corporation, or to a railway or street railway company, or any corporation operating or proposing to operate a public utility; and after inquiry, the board must report its opinion on the proposed law. (Sec. 55.)

The Board is required to make an annual report containing among other things the result of any investigation conducted during the year; such facts and suggestions as to the condition, affairs, and conduct of any railway or street railway as may seem advisable; such tables and abstracts of the reports of railway and street railway companies as it may deem expedient. (Sec. 56.)

It is the duty of the Board to superintend the bookkeeping and keeping of accounts of assets, liabilities, revenue and expenditure of all public utilities that are operated under the control of a municipal corporation; and it may require such statements and returns and publish such facts and statements as it thinks proper. (Sec. 57.)

The Board has power to arbitrate disputes between railway and street railway companies and their employees, when submitted to it. It is required to endeavor to mediate in case of strikes in any public utility by which the public is likely to suffer; in so doing it has full powers of investigation and publication.

The Board has power to enforce compliance with the terms of any agreement between a municipality and a company, on the part of either; to enforce its orders, the Board may take entire control and management of the property of any public service company. (Ontario Statutes, 1906, 6 Ed. VII., Ch. 31.)

The detailed provisions of the Railways Act of 1906, requiring annual reports in accordance with forms and specifications laid down by the Railway and Municipal Commission apply also to street railways. (Ib., 6 Edw. VII., Ch. 30, Secs. 228-236.)

3. CENTRAL CONTROL OF CITIES IN PRUSSIA.

The city in Prussia acts not under specific grants of power from the legislature, but under a general power to administer local affairs. Its action is, therefore, not controlled by the central legislature (Landtag), but it is subject to administrative supervision in specific instances. For most purposes this administrative supervision is exercised, for the larger cities, by the president of the Government District (Regierungsbezirk) in which the city is; for Berlin, by the Oberpräsident of the Province of Brandenburg. The Emperor, as King of Prussia, may veto the election of any Oberbürgermeister (Mayor) without assigning cause. In Berlin, Potsdam and Charlottenburg the Emperor-King has the right of veto over any change in street plan, or new street railway routes. In case of a disagreement between the city legislature and the executive branches, or of a veto by the executive of a resolution of the council, an appeal lies to the district committee, a body the majority of which is composed of persons outside the professional Prussian service. The central administration may also veto any municipal resolution which is outside the sphere of municipal government; and, again, an appeal lies to the district committee. Certain sorts of acts must have the approval of the district committee before they are valid; especially resolutions for incurring debt, or for levying taxes to a greater amount than 50 per cent., that raised by the state within the city, or taxes unequally distributed.

The central government may insert in a city budget items for obligatory expenses: i. e., for the support of functions which the state requires the city to perform. These functions, in which the city acts as the agent of the state, are subject to strong central control. The state administration controls, for example, the general system of public instruction; it approves the appointment of teachers; it supervises school finances, with power to compel the provision of suitable buildings and the payment of a sufficient teaching force. In return, the central government sometimes grants aid to cities to enable them to maintain the prescribed schools. There is a similar central control over the administration of charities, and of such parts of the administration of justice as are entrusted to cities.

"While central administrative control over cities in Prussia * * * is directed primarily toward keeping the city within the bounds of its competence as fixed by law, and keeping the municipalities up to the performance of their duties as state agents, it is made use of also incidentally, and particularly in the administration of the municipal finances, with the idea of preventing the municipality from acting unwisely even in purely municipal matters." Goodnow: *Municipal Problems*, p. 103.

4. CENTRAL CONTROL IN FRANCE.

In France, as in Prussia, the city does not act by virtue of specific and detailed grants of power; it has a general grant of local administrative power. It may do anything within its sphere which is not forbidden; and the decisions of municipal councils are final, where there is no specific provision in the law for central administrative review.

The mayor may be suspended by the prefect of the department for not longer than one month; by the minister of the interior for three months; and removed by the President of the Republic for cause. The prefect sees that the mayor performs his duties as an agent of the state; if he refuses, the prefect may do the act required himself, or appoint someone to do it. Any police ordinances which the mayor may issue, may be repealed by the prefect. The prefect may insert appropriations in the budget to pay obligatory expenses. The annual budgets of the smaller cities must be approved by the prefect of the department; of the larger ones, by the minister of the interior. Certain enumerated acts of municipal councils (13 in number) must have the approval of a superior authority; among them are the making of long term leases, or sales, of city property; the incurring of large new expenses; changes in street plan; the levying of extraordinary taxes or of octrois duties. Cities may appeal from decisions of administrative officers to the administrative courts.

PART TWO

THE PART OF THE PEOPLE IN MUNICIPAL GOVERNMENT

I. MUNICIPAL SUFFRAGE.

1. UNITED STATES.

For the election of municipal officers the suffrage qualifications in the United States are, in general, the same as for other elections within the various states, i. e. practically universal suffrage for males who have reached the age of twenty-one years. In four states, Colorado, Idaho, Utah and Wyoming the general suffrage (and consequently the municipal suffrage) has been extended to women of the same age. There are two instances in which the suffrage for the election of municipal officers differs from that for the other state elections. Women may vote at city elections in Kansas, while in Rhode Island the constitution provides (II, 2) that no one may vote at an election for members of the city council of Providence who has not paid a tax within the previous year on property of an assessed value of at least \$134.00.

The above statement is intended to apply only to general municipal elections. It does not include the instances in which women may vote for school officers or the few cases in which they may vote on the question of incurring indebtedness.

Any restrictions on the suffrage within a state, e. g. the educational tests of Connecticut, Massachusetts, Maine, and Delaware, and the educational and other qualifications required in Mississippi, Alabama, South Carolina and Virginia, apply to the municipal suffrage as well. However, all restrictions in the United States, with the exception of those in the four states last named above which were designed to shut out the negro vote, have resulted in reducing the suffrage very little below a universal manhood standard.

Aside from the suffrage qualifications for the election of city officers as above stated, there are a few states in which a tax paying qualification is required for voting on the question of incurring debt. In these states a city may not incur debts in excess of the income for any year except by vote of the taxpayers. Col. Const. X, 8; La. Art. 281, 199 (Women taxpayers may vote upon all such questions); Utah XIV, 3. The Montana constitution (XIII, 6) forbids the legislature to extend the debt limit of any city beyond 3 per cent of the assessed valuation of its taxable property unless

such increase is approved by the taxpayers concerned. Finally, in Rhode Island no one can vote at an election in any town or city on a proposition to impose a tax or expend money unless within the preceding year he has paid a tax on property situated in such town or city valued at \$134.00 at least. (Const. R. I., II, 2.)

2. GREAT BRITAIN, CANADA AND AUSTRALIA.

(a) *England and Wales.*

In England and Wales the municipal electorate includes all persons who have been for twelve months previous to an election in occupation of any house, shop or building in the borough, and have resided in the borough or within seven miles of it during that time, have been rated to the poor law, and have paid their rates, and have received no relief from the parochial authorities. (45 & 46 Vict. C. 50.) An alternative qualification is the occupation of land of the yearly value of £10. (51 & 52 Vict. C. 10.) Women, if householders and ratepayers, are qualified to vote at municipal elections. (45 & 46 Vict. C. 63.)

The electorate for the London County Council differs somewhat from that for borough councils in England and Wales. It includes all persons living within fifteen miles of the city who for one year have been occupiers of dwelling houses or tenement dwellings of any value, or of offices or business premises of £10 annual value. Women who occupy houses of their own right are entitled to vote. (51 and 52 Vict. C. 41, Sec. 2 (4) 77).

The Parochial voters are those who elect members of the borough councils and Board of Guardians. The Parochial electorate includes all who are qualified under either the Parliamentary or the county franchises; but instead of having only one vote, as in the case of the county council electors, every voter has as many votes as he has qualifications in different parishes.

(2) *Scotland.*

In Scotland the electors consist of all householders who have lived within the limits of the town a year, have paid their rates and received no relief from parochial authorities; all persons who reside more than seven miles beyond some part of the municipal boundary providing they have premises within the municipal boundary; all women who possess the foregoing qualifications provided that a wife shall not be entitled to vote in respect of any premises of which her husband is registered. (63 and 64 Vict. C. 49.)

(Note.—The English municipal electorate in practice excludes nearly all the unmarried men, all the floating laborers and lodging house sleepers. Furthermore rates are levied on all the householders and for the municipal franchise, these rates must have been paid some months prior to the election. In Glasgow this provision so operates as to disfranchise about one-third of the

householders. Though the rate paying qualifications exist likewise in England, it does not operate in the same way. In Scotland rates are divided between owner and occupier and are collected directly from each. Collection from the poorer tenants is almost impossible and they lose their right to vote. In England the rates on tenements less than ten pounds are prepaid by the landlord who charges them into the rent. In England probably 20 per cent. of the adult male population is disfranchised.—Ed.)

(3) Canada.

The right of voting at municipal elections in Toronto belongs to all men, unmarried women, or widows of full age of twenty-one years who are rated on the revised assessment roll of the municipality to the amount of \$400.00 for real property held in their own right (or, in the case of married men, held by their wives), or who are rated on the assessment roll in respect of an income from some trade, calling, office or profession to the amount of \$400. Freeholders of the municipality, even though they are not resident, may vote. (Revised Statutes of Ontario, Cap. 231, 86-88.)

(4) Australia. (Victoria and New South Wales.)

In Victoria every rate-payer of the full age of twenty-one years is entitled to vote, and accumulative votes are permitted according to the assessed value of the property occupied, leased or owned by the rate payer. If the property be rated upon a value of less than fifty pounds, the voter is entitled to one vote; if such value amounts to fifty pounds and less than one hundred pounds, he has two votes; and if the amount exceeds one hundred pounds he has three votes. But no person is entitled to be enrolled as a voter in respect to property of less annual rateable value than ten pounds unless there is a house upon the property and he resides there. (Local Govt. Act of 1890, 54 Vict. Statutes, No. 1112, Sec. 66.)

In Sydney, New South Wales, the electoral roll is made out for each ward every year, and the voting qualifications are as follows:

(a) Any natural born or naturalized British subject male or female of the age of twenty-one years or upwards, possessed of a freehold interest in any property assessed at a yearly value of five pounds or upwards, or of a leasehold interest in any property of a yearly value of twenty-five pounds or upwards is entitled to vote in every ward in which he or she is so qualified. (In this act the word "female" includes only married women).

(b) Any natural-born or naturalized British subject who has been continuously during the preceding six months in joint or several occupations of any house, warehouse, counting house, shop or other building, including any room or part of house separately occupied of a yearly value of ten pounds or upwards, is entitled to one vote. In case of a joint occupation only one of such occupiers

is entitled to be placed on the roll unless the premises jointly occupied are of the yearly value of twenty pounds or upwards, in which case as many of the occupiers will be allowed to vote as, when divided into the said yearly value, gives a quotient of ten pounds.

(c) Any person, male or female, being a natural-born or naturalized British subject, who, as a lodger, has continuously during the previous six months, occupied jointly or severally any lodgings in the same dwelling house in a ward, of a clear yearly value of ten pounds or upwards, is entitled to one vote in the ward where such dwelling is. The provision for joint lodgers is the same as for joint occupiers. (See Sec. above).

If a person has more than one qualification under section (b) or under section (c) or under both these sections, he is entitled to have his name placed on the roll for one ward only, but he may choose the roll on which his name is to be placed. A person having a qualification mentioned in section (a) is not entitled to have his name placed on the roll for any ward in virtue of any other qualification under section (b) or section (c) which he may possess; but he is entitled to have his name placed on the roll for every ward in which he is qualified under section (a) by virtue of his ownership or lesseeship of property in that ward. (Statutes of New South Wales, Vol. 4, No. 30, p. 261).

(Note.—Practically every adult citizen of Sydney who has resided in any one ward for six months prior to an election is entitled to vote under one of these qualifications.)

3. CONTINENTAL EUROPE.

(1) France.

The French municipal electorate includes all male French citizens of the age of twenty-one years and upwards who have their real domicile in the commune and have lived there for at least six months; those who have been entered on the tax list for the road duty and, if they do not reside in the commune have declared their intention of exercising their electoral right there.

The members of the families of the electors comprised under the head of the road duty, even though they are not personally included, and the inhabitants who, by reason of their age or their health, have ceased to be subject to this duty (French Municipal Code of 1884, Sec. 14). "The French system of taxation includes not only several kinds of property tax but also a classified tax upon business pursuits; and every one who owns property or carries on any kind of business or calling in a town is entered upon the tax rolls. The electoral laws permit any man thus entered on the tax rolls of a commune to vote at the municipal elections. Thus, suburban residents who live beyond the municipal confines may

vote in the town, provided they do business or pay their taxes there." Shaw, *Municipal Govt. in Continental Europe*, 169.

(2) Germany. (Prussia.)

In Prussia the right to vote in a municipal election is much restricted, being made to depend upon the possession of the right of citizenship in the city. The acquisition of the right of citizenship is permitted to every "independent" Prussian who for the space of one year has been a resident within the city limits; has received no public poor relief; has paid his local taxes; and who either owns a dwelling house within the city limits; follows permanently some pursuit which serves as his principal source of income or pays taxes on an income of 900m. (\$225) or more per year. The word "independent" applies to every male Prussian who has completed the twenty-fourth year of his age and who has a separate place of residence of his own. The municipal voters' list, made up of all persons with the above qualifications, is arranged in the order of the total amount of direct taxes paid by each person to the city and the state, the heaviest taxpayers coming first. The list is then divided into three classes in the following way: Beginning at the head of the column, it is estimated how many of the heaviest taxpayers contribute one-third of the total amount of direct taxes. The persons who together pay this first third constitute the first class of voters and have the right to select one-third of the members of the city council. The second and third classes are determined in the same way, and each of these is entitled to choose one-third of the members of the council. (*Städteordnung für die sechs östlicher Provinzen der Preussischer Monarchie*, 1853, Title 1; Sec. 5-8, 12-28).

(Note.—The practical working of the Prussian system may be illustrated by giving some figures for the Berlin election of 1898. In that year the number of voters of the first class was 1,210, of the second class 8,865, and of the third class 308,692. In other words, .39 per cent of the voters elected the first third of the council, 2.87 per cent chose the second third, while the remaining 96.73 per cent elected the final third. The first and second classes, having the right to choose two-thirds of the members of the council, represented about three and one-fourth per cent of the total number of voters. (See Brooks—*City Govt. by Taxpayers*, Municipal Affairs, III, pp. 396-433).

(3) Austria.

In Austria the right to vote is restricted to citizens twenty-four years old who have a minimum tax of five florins or belong to the learned profession—clergy and all religious teachers, high officials of the government, military officers, lawyers, doctors, pharmacists who have been duly registered, civil engineers, architects and other graduates of technical and special high schools, professors and schoolmasters.

These personages, together with the citizens who pay direct taxes of at least five florins make up the body of the voters. This body of taxpayers is then divided into three classes. The first class is composed of taxpayers who pay a tax of at least two hundred florins (\$80), the second class includes those whose tax payment is not less than thirty florins (\$12), and the third class comprises all the rest of the voters.

The taxpaying qualifications and the requirement that voters shall be twenty-four years old, excludes more than three-fourths of the adult men from the municipal suffrage. (Shaw, *Municipal Govt.* in *Continental Europe*, p. 413.)

II. THE CHOICE OF CITY OFFICERS.

1. METHODS OF NOMINATION.

(1) United States.

In the United States nominations for political office are controlled by the political parties either in the nominating conventions or at the primaries where members of the party nominate more or less directly.

(Note.—The National Municipal League, in its "Municipal Program," has adopted the following as a proper form for a constitutional amendment to secure the most desirable system for the nomination of elective municipal officers in cities of the United States:—"Nominations of such city officers shall be by petition, signed by qualified voters of the city concerned. The number of the signatures to such petition shall be determined by the council of the city concerned, but not more than fifty signatures shall be required. Such petition shall be filed in the office of the mayor at least thirty days before the date of the election; provided, however, that in the case of the death or withdrawal of any candidate so nominated such petition may be so filed within a less period than thirty days. The voter must vote separately for each candidate for whom he desires to vote; if the election is by ballot the council of the city shall determine the form of the ballot to be used, but the names of all candidates for the same city office must be printed upon the ballot in alphabetical order under the title of the office. ("Municipal Program," p. 176.)

The above was also made a section in the model municipal corporations act adopted by the League as a part of its "Program" (*Municipal Program*, p. 224, Sec. 3). Such a provision in a city charter would, of course, secure the same results as a constitutional amendment but would be liable to change by the legislature at any time.—Ed.

(2) Great Britain, Canada and Australia.

Great Britain.—In Great Britain the nominating system provides in no way for the recognition of parties. A nomination to be valid must be made as follows: Nomination papers must be filed at the city clerk's office at least seven days before the day of election. The paper must be in writing and must be signed by a proposer and seconder and at least eight voters of the district for which the election is to be held; the paper must give the candidate's name in full, his place of residence and other information. The mayor passes on the validity of each nomination. When the nominations are all in the list of candidates with their descriptions, proposers and seconds is printed and conspicuously bulletined. If only one nomination is made in the district, the nomination is itself the election. If there is no valid nomination, the retiring officer is deemed to be re-elected. (35 and 36 Vict. C. 33: 45 and 46 Vict. C. 50).

Canada. (Ontario.)—In Ontario, a meeting of the electors for the nomination of candidates is held seven days before the election according to rules prescribed by the council. At such meetings the person or persons to fill each office is proposed and seconded seriatim; every nomination must be in writing, must state the full name, place of residence and occupation of the candidate and must be signed by his proposer and seconder. The nomination papers are filed with the chairman of the meeting. If only one candidate for any particular office is proposed, that candidate is declared duly elected to the office. The names of the candidates proposed for the respective offices are then posted in the office of the city clerk, where they remain until election day. (Consolidated Municipal Act of Ontario, Secs. 118-129).

Australia. (Victoria.)—In Victoria, papers must be filed at least four days before the election with the name and description of the candidate; the paper must be signed by not less than ten persons duly qualified to vote at the election and also by the candidate. The candidate or his sponsors must pay ten pounds to defray the expenses of the election. If only one candidate only is nominated in a district, he is declared elected. (54 Vict. Statutes, No. 1112-1110).

(3) Continental Europe.

In France and Germany there is no provision for nominations. Electors may vote for any one qualified to sit in the municipal council.

2. ELECTIVE AND APPOINTIVE OFFICERS.**(1) United States.**

In the United States, the voters in the cities elect nearly all of the important municipal officers. The comptroller and treasurer in most

cities are elective, but in regard to other offices, no general observation can be made. The following officers are elected in the cities indicated:

Baltimore.—Mayor, councilors, surveyor, comptroller.

Boston.—Mayor, aldermen, street commissioners, school committees.

Cleveland.—Mayor, aldermen, president of the council, auditor, treasurer, solicitor, board of public service, (the responsible head of the city administration).

Chicago.—Mayor, aldermen, city clerk, city treasurer.

Denver.—Mayor, council, sheriff, auditor, assessor, treasurer, city clerk, recorder, coroner, constables.

Detroit.—Mayor, aldermen, city clerk, treasurer, constable, justice of the peace, police justice, recorder, judge of recorder's court, board of estimates, school inspectors.

New Orleans.—Mayor, aldermen, treasurer, comptroller.

New York.—Mayor, aldermen, presidents of the boroughs, comptroller, justices of the municipal courts.

Philadelphia.—Mayor, aldermen, city solicitor, recorder of taxes, city treasurer, city comptroller, coroner.

St. Louis.—Mayor, aldermen, comptroller, auditor, treasurer, register, collector, recorder, inspector of weights and measures, sheriff, coroner, marshal, public administrator, president of board of assessors, president of board of public improvements.

St. Paul.—Mayor, aldermen, city treasurer, city comptroller, justices of the peace, constables.

San Francisco.—Mayor, auditor, treasurer, tax collector, assessor, coroner, recorder, city attorney, district attorney, sheriff, judges of police court.

* * * * *

(The following form for an amendment to state constitutions was approved by the National Municipal League in 1899. It indicates what, in the opinion of the League, should be the general form of municipal organization and what officers should be elective.—Ed.)

Municipal organization.—In the organization of every city hereafter created provision shall be made:

For a Council, the members of which shall be elected by the people;

For a Mayor elected by the people.

The Mayor shall be the chief executive officer of the city, and shall appoint and remove all heads of departments in the adminis-

trative service of the city, except the head of the Finance Department, who shall be known as the Controller.

The Mayor shall appoint and remove all other officers, agents and employes in the administrative service of the city, and fill all vacancies therein, provided, however, that laborers may be appointed and removed by the heads of departments in which they are employed and that all appointments and promotions in the subordinate administrative service of the city, including laborers, shall be made solely according to fitness, which shall be ascertained, so far as practicable, by examinations that, so far as practicable, shall be open competitive examinations.

All persons in the administrative service of the city, except the Mayor, shall hold their offices without fixed terms.

The Mayor and members of the Council shall be the only city officers elected by popular vote. (Municipal Program, p. 182; cf. *infra*. Pt. Four, 1, 3, (1).

(2) Great Britain, Canada and Australia.

Great Britain.—In Great Britain the participation of the people in the city government is confined to the selection of a council in which is vested almost all the powers of government. The city's large staff of officials is appointed by the council and is under its supervision. The only officers which the Municipal Corporations Act requires the city council to elect are the mayor (Sec. 61), the city clerk (Sec. 17), and a treasurer (Sec. 18). As for the other officers "the council shall from time to time appoint such other officers as have been usually appointed in the borough, or as the council thinks necessary, and may at any time discontinue the appointment of any officer appearing to them not necessary to be re-appointed (Secs. 19, 45 and 46 Vict. C. 50).

Canada.—The mayor and members of the municipal council and school trustees are elected by popular vote. All the other municipal officers are appointive. (Consolidated Municipal Act, Sec. 118).

Australia.—In Victoria the people choose the members of the municipal council. All the other officers are elected by the council. (Local Government Act, of 1890).

(3) Continental Europe.

France.—As in England the people in the French cities elect only the members of the municipal councils. The council chooses from its own membership the mayor and his assistants. All the communal officers are appointive. (French Municipal Code, Sec. 88).

Germany and Austria.—The only officers elected by popular vote in the German cities are the members of the council.

3. METHODS OF ELECTION.

(1) General or district ticket.

(a) *United States.*

Baltimore.—Members of both houses of the council are elected by districts. (Charter of Baltimore, Secs. 210, 211).

Boston.—Members of the larger house are elected by districts while the thirteen members of the smaller house are elected at large. (Mass. Acts and Resolves, 1893, Ch. 417; 1904, Ch. 404.)

Chicago.—All members of the council are elected by districts. (Act of 1872, IV, Sec. 4).

Cleveland and Cincinnati.—Partly by districts and partly at large. (Law of 1902, Sec. 116).

Detroit.—All elected by districts. (Charter, Chap. VII, Sec. 1).

Denver.—Sixteen aldermen elected by districts and seven supervisors elected at large. (Charter, Art. 11, Sec. 7).

Kansas City.—The members of the lower house are elected by districts; the members of the upper house entirely at large. (Charter, Art. II, Sec. 1).

New Orleans.—All elected by districts. (Charter, IV, 9).

New York.—Seventy-three of the aldermen are chosen by district and city officers are members ex-officio (Charter of New York, Chap. II, Sec. 8).

Philadelphia.—All elected by districts. (Philadelphia Digest, Chap. XLIV, Secs. 1 and 10).

St. Louis.—Larger house elected by districts; smaller house at large. (Charter, Art. III, Secs. 2 and 4).

St. Paul.—Larger house elected by districts; smaller house at large. (Charter, IV, Sec. 1).

San Francisco.—All members of the council elected at large. (Charter, Art. II, Chap. 1, Sec. 2).

(b) *Great Britain, Canada and Australia.*

Great Britain.—Where a borough has wards, there shall be a separate election of councillors for each ward. (45 and 46 Vict. C. 50, Sec. 50).

Canada (Ontario).—The council shall consist of three aldermen from each ward. (Ontario Consolidated Municipal Act, Sec. 70).

Australia.—In Melbourne the district system prevails; each ward elects three councillors.

In Sydney a similar system is in operation, two aldermen being elected from each ward. (Sydney Corp. Amending Act, 1900, Sec. 19).

(c) *Continental Europe.*

France.—When the total population of the commune is more than 10,000 inhabitants, the commune may be divided into electoral sections, each of which will elect a number of councillors proportioned to the number of registered electors. (French Municipal Code, II-I-11). The general ticket is the prevailing one throughout France, with the exception of Paris, where election is by district. 11.

Germany. (Prussia.)—In Germany the municipal assembly determines whether the district plan shall be adopted. If it is determined to adopt it, the city executive is to attend to the apportionment, fixing the limits of the districts and the number of the members to be elected from each district. Berlin is laid off in electoral districts.

Austria.—Vienna is divided into nineteen permanent districts from each of which a certain number of councillors is elected.

(2) **Majority or plurality vote.**

(a) *United States.*

In all the large cities of the United States, a plurality of votes constitutes an election. In some cases this rule is incorporated in the charter. (St. Paul, Ch. II, Sec. 12; New Orleans III, Sec. 3; Revised Stats. of Mass. Ch. II, Sec. 2). Usually, however, elections are regulated by the general state laws, where uniformly the plurality vote is the rule.

(b) *British cities.*

Great Britain.—In the election of councillors, the persons who have the greatest number of votes shall be declared elected. (45 and 46 Vict. C. 50, 58).

Canada.—The candidate or candidates having the highest number of votes is declared elected. (Consolidated Municipal Act, Sec. 178).

Australia.—The candidate having the greatest number of votes is declared elected. (54 Vict. No. 1112, 130).

(c) *Continental Europe.*

France.—In municipal elections no one is elected on the first ballot unless he has received (1) a majority of the votes cast; (2) a number of votes equal to one-fourth the number of registered electors. If enough

candidates to make up the whole number of councillors to be elected do not receive this majority, the names of the remaining candidates are submitted to a second ballot on the following Sunday. On this ballot the candidates receiving the highest number of votes cast are declared elected to fill the remaining places on the council. If different candidates have the same number of votes the oldest is declared elected. French Municipal Code, Art. 30.

Germany (Prussia).—In a Prussian election an absolute majority is necessary to elect a candidate on the first ballot. If a majority vote is not obtained, a second election is held within eight days. At the second election the number of candidates is limited to twice the number of offices left to be filled and those candidates are voted for who received the highest number of votes on the first ballot. On the second ballot a plurality only is required for election. (St. O, Sec. 26).

III. THE REFERENDUM.

1. THE REFERENDUM ON ACTS OF THE STATE LEGISLATURE RELATING TO CITIES.

(1) On all special acts relating to a city.

Illinois. (Chicago.)—The amendment to the Illinois constitution, adopted November, 1904, authorizes the state legislature to pass "all laws which it may deem requisite to effectually provide a complete system of local municipal government in and for the city of Chicago." But it further provided that no law based on this amendment affecting the municipal government of Chicago shall take effect until such law is consented to by a majority of the legal voters of the city voting on the question at any general, municipal or special election. Nor may any local or special law, based on this amendment and affecting specially any part of the city of Chicago, go into operation until consented to by a majority of the legal voters of such part of the city. Const. Ill.

Oregon.—In Oregon, the people of any municipality have the right to demand that any local or special act relating thereto passed by the legislature shall be submitted to the voters of the city for approval or rejection. The manner of exercising this power is to be prescribed by general laws. Const. Ore. IV, Sec. 1a. (Amendment approved June 4, 1906).

(2) Referendum on particular acts of state legislatures.

(a) *Extension of debt limitation and authorizing loan of credit.*

In a few states the legislature may not authorize cities to do certain things without providing that the cities first obtain the consent of their voters. While this provides for a referendum directly on

the act performed by the city it is in a secondary sense a referendum on the action of the legislature.

Montana.—The constitutional debt limit of a city may not be extended by the legislature unless the act provides that the city submit the question of an increase to a vote of the taxpayers. Const. Mont. XIII, 6.

Tennessee.—The legislature may authorize cities to lend their credit to individuals, associations or corporations providing such action by a city is assented to by three-fourths of its voters. Const. Tenn. II, 29.

(3) General laws made applicable to cities by referendum.

The legislatures sometimes pass general laws relating to cities and provide that they shall not become operative in any city except upon adoption by a vote of its electors. This expedient is often employed in the case of general laws for the incorporation and organization of cities, it being provided that those cities which so desire may continue under their old charters while those wishing to take advantage of the new law may do so by a vote accepting its provisions (cf. Ill., City Act; Ill. Rev. Stats., Cities, Sec. 1). As examples of other general laws which become applicable only upon referendum the following may be cited: Ill. City Civil Service Law (Laws of Ill., 1905, p. 85), the Illinois law permitting proportional representation in the city council (Ill. Laws, 1883, p. 56), and the law providing for the creation of the Sanitary District (Laws of Ill., 1889, p. 123).

(4) Local option laws.

Connecticut.—Twenty-five legal voters of a city may demand that a ballot be taken on the question of permitting the sale of intoxicating liquors. (Conn. Rev. Stats., 1902, Sec. 2638.)

Delaware.—The constitution empowers the legislature to pass a law by which the qualified voters of any district of the state may vote on the question whether intoxicating liquors may be manufactured or sold within the limits thereof. The city of Wilmington composes one district. When a majority of the members elected to both houses of the general assembly from a district request the submission of the question of license or no license to a vote of the electors in the district the general assembly must provide for such a vote. (Del. Const., XIII, 1, 2.)

Kentucky.—On petition of twenty-five per cent. of the voters of a city an election must be held on the question of granting licenses for the sale of liquors. (Ky. Rev. Stats., 1899, Sec. 2554.)

Massachusetts.—Licenses to sell intoxicating liquors may be granted by the city authorities only on condition that permission

to do so is given by a vote of the people annually at the municipal election. (Mass. Acts and Resolves, 1881, Chap. 54.)

Missouri.—Upon petition, signed by at least one-tenth of the qualified voters of any city having a population of 2,500 or more, the city council must order an election to determine whether intoxicating liquors shall be sold within the city limits. The election must be held within 40 days from the filing of the petition unless there is to be a regular election within 60 days. A majority of the vote cast at the election if against the proposition is sufficient to prevent the sale. The question once determined may not again be submitted for four years. (Mo. Rev. Stats., 1899, Secs. 3028-3033.)

North Carolina.—The governing body of any city must order an election upon petition of one-third of the registered voters, to determine: (1) Whether intoxicating liquors shall be manufactured in the city. (2) Whether barrooms or saloons shall be established. (3) Whether dispensaries shall be established. A majority of the votes cast at the election against any proposition is sufficient to defeat it. (N. C. Rev. Stats., 1905, Secs. 2069-2073.)

Texas.—The constitution requires that the legislature enact a law whereby the qualified voters of any city may determine by a majority vote whether the sale of intoxicating liquors shall be permitted within its limits. (Tex. Const., XVI, 20.)

Wisconsin.—In Wisconsin upon petition of ten per cent. of the voters of a city an election must be held on the question of permitting the sale of intoxicating liquors. (Wis. Rev. Stats., 1898, Sec. 1565a.)

2. THE REFERENDUM ON CITY ORDINANCES.

(1) On all ordinances.

In all the cities of Oregon, Nebraska and South Dakota, and in Denver and Los Angeles, the people have a right to demand that ordinances passed by the city council (with certain general exceptions) be submitted to popular vote.

Oregon.—By an amendment to the constitution adopted June 4, 1906, the legal voters of a city are given the power to demand that any act of their municipal legislatures be submitted to a popular vote and the cities themselves are to prescribe the manner of exercising this power. Not more than ten per cent. of the legal voters may be required to order a referendum. (Const. Ore., VI, 1a.)

Nebraska.—No ordinance or other legislative measure except those relating to the public health or safety, can go into operation

until thirty days after passage. If within that time a petition, signed by at least fifteen per cent. of the voters of the city, asking for a referendum is presented to the duly authorized authorities the measure must be submitted to a popular vote at any regular election held after the expiration of fifteen days. If the petition contains a request for a special election, and is signed by at least twenty per cent. of the voters, the measure must be put to a vote at a special election. Any measure so submitted is considered approved if it receives a majority of the votes cast thereon and measures so passed can not be amended or repealed by the city council within a year after their enactment. After a year the council may amend or repeal them by a yea and nay vote of two-thirds the members of the council. (Rev. Stats. Neb., 1905, Secs. 3407-3415.)

South Dakota.—No law or ordinance passed by the legislative body of a city, except emergency measures, goes into effect until twenty days after its passage. Within that time five per cent. of the electors, may, by petition, demand a referendum on the law at a special election to be held within thirty days. A law so submitted to popular vote does not go into effect unless approved by a majority vote of the electors voting thereon.

If the petitions for a referendum are filed not more than three months prior to an election of city officers a special election is not required. (Laws of S. D., 1899, Chap. 94, Secs. 1-3, 8. Const. S. D., III, 1.)

Denver.—Any measure passed by the council must be referred to a vote of the qualified voters if within sixty days after its passage a petition signed by twenty-five per cent. of the qualified electors is filed with the clerk requesting an election thereon. Upon the filing of a petition the council must submit the measure to a vote at the next general election, providing it does not occur less than thirty nor more than ninety days after the petition is filed. Otherwise the measure must be submitted at a special election. (Charter of Denver, Sec. 21.)

Los Angeles.—Ordinances passed by the city council, except as indicated below, do not go into effect before thirty days from the time of their final passage and their approval by the mayor. If during this thirty days a petition, signed by a number of electors to at least seven per cent. of the entire vote cast for mayor at the last preceding general election at which a mayor was elected, is presented to the council protesting against the passage of an ordinance, it is suspended from going into operation. In such cases the council must reconsider the ordinance against which the protest has been filed and if it is not repealed by them they must submit it to a vote of the people either at a special election or at the next general election. An ordinance thus submitted to the people cannot

go into effect or become operative unless approved by a majority of the electors voting on the question.

In certain cases ordinances may become operative as soon as passed by the council.

(a)—When so required by the general laws of the state or by the city charter.

(b)—Ordinances respecting street improvements.

(c)—Ordinances for the immediate preservation of public peace, health or safety containing a statement of their urgency and passed by a two-thirds vote of the council. No grant of a franchise can be considered an emergency measure. All such grants must be submitted to a referendum vote. (Los Angeles Charter, Sec. 108b.)

(2) The right to a referendum on specific ordinances.

(a) *Franchise grants.*

GENERAL STATE LAWS.

Arizona.—No franchise for any public utility may be granted to any corporation or association unless authorized by a majority vote of the qualified electors of the municipal corporation voting at a regular or special election. (Laws of 1905, Chap. 4.)

Iowa.—No franchise may be granted, renewed or extended by any city or town for the use of its streets, highways, avenues, alleys or public places for telegraphs, telephones or electric street railways unless a majority of the legal voters voting thereon vote in favor of the same at a general or special election. (Iowa Revised Laws, 1897, Sec. 776.)

Illinois.—In cases where cities own their own street railways no ordinance authorizing a lease of the same for a longer period than five years or any ordinance renewing a lease may go into effect until the expiration of sixty days from its passage. If within that time a number of voters equal to ten per cent. of those voting at the last election for mayor file a petition with the city clerk asking that the ordinance be submitted to a popular vote, it cannot go into effect unless submitted to the electors of the city and approved by a majority of those voting thereon. (Act of May 18, 1903, Sec. 1, Laws of Ill., 1903, p. 285.)

Minnesota.—In cities which adopt their own charters no perpetual franchise or privilege may be granted or extended unless the question of granting or extending the same shall have been first submitted to the qualified voters and approved by a majority of those voting thereon. (Laws of 1903, Chap. 238, Sec. 9.)

Montana.—No franchise for any purpose may be granted by any city or town without first submitting the application therefor

to the resident freeholders whose names appear on the city or county tax roll preceding such election. (Acts of 1903, p. 157.)

Nebraska.—No franchise can be granted or extended until the proposition has been submitted to a vote of the electors either at a general city election or at an election called for that purpose. A majority of the votes cast at the election is necessary for approval. (Revised Stats., 1905, Sec. 860.)

Wisconsin.—No ordinance for granting either a street railroad, electric lighting, gas, water or telephone franchise, or for the extension of any such franchise is operative in any city in the state until after sixty days from the date of its passage. If within that time 20 per cent. of the voters demand that the ordinance be submitted to the people, an election must be held and the proposition is not valid unless approved by a majority of those voting thereon. (Law of 1903, Ch. 387.)

CITY CHARTERS.

Denver.—No franchise relating to any street, alley or public place of the city and county can be granted except upon the vote of the qualified tax-paying electors. The applicant for a franchise must deposit with the treasurer a sum sufficient to cover the expense of submitting the question to the vote before an election will be held. (Charter of Denver, Sec. 265.)

Grand Rapids.—If within thirty days after the first publication of an ordinance which grants, extends or amends a franchise, a petition, signed by at least 12 per cent. of the qualified voters, is filed with the city clerk asking that the question of granting the franchise be submitted to the popular vote, the ordinance cannot become operative until the question is so submitted at a regular or special election and approved by a majority of those voting thereon.

The grantee of a franchise or privilege cannot assign or sublet it or allow any one else to use it without consent granted by ordinance subject to the right of referendum provided for above. (Charter of Grand Rapids, Sec. 144.)

Houston.—Whenever application is made to the city council for any grant, franchise, lease, or right to use the streets, highways or public property of the city, or whenever an ordinance is introduced in the council proposing to make such a grant, the ordinance as finally proposed to be passed must be published in a daily newspaper of Houston once a week for three consecutive weeks. The publication is at the expense of the applicant for the grant and if the ordinance as first published is changed before the final passage it must be republished.

Any such ordinance cannot take effect or become a law or contract or vest any right in the applicant until the expiration of thirty days after it has been passed by the council and approved by the mayor. Pending the passage of the ordinance or during the thirty days following its passage the council must order an election if requested to do so by a written petition signed by at least 500 qualified voters. When an election is so called the ordinance must be published in full in the call and unless a majority of the votes cast are in favor of the ordinance it cannot pass or confer any rights or privileges of any kind on the applicants therefor. If the council has already passed the ordinance before the election it must, upon an adverse vote, at once repeal the same. All these provisions apply to any extension or enlargement of powers or privileges previously granted to any corporation, association or person. (Charter of Houston, Art. II, Sec. 18, Special Laws of Texas, 1905, p. 141.)

Portland.—Any ordinance granting a franchise or granting authority to lease for a longer period than five years, cannot go into force until fifteen days after its passage and approval by the mayor. If within that time a petition signed by at least fifteen per cent. of the electors is filed with the council asking that such an ordinance be submitted to a popular vote it must be so submitted at the next election, and unless it receives in its favor a majority of the votes cast thereon it has no force or effect. (Charter of Portland, Sec. 108, Special Laws of Oregon, 1903.)

San Francisco.—Except as otherwise provided in the state constitution or in the charter, every ordinance which involves the granting by the city of any franchise for the supply of light or water or for the lease of any public utility must be submitted to a vote of the electors at the next election after its adoption. No such franchise or lease is valid unless thus adopted by the people. (Charter of San Francisco, Chap. 1, Sec. 21.)

(b) *On the acquisition of public utilities.*

GENERAL STATE LAWS.

Colorado.—Municipalities may purchase or erect water works, gas works or lighting plants or authorize their erection, but such works cannot be authorized or erected until a majority of the voters of the city, who are taxpayers under the law, approve thereof. (Laws of 1903, Ch. 160, Sec. 1.)

Connecticut.—When approved by a majority of the electors voting thereon at the annual municipal election cities may acquire and operate lighting plants. (Laws of 1893, Ch. 231, Sec. 2.)

Idaho.—Cities with over 2,000 inhabitants may issue bonds to provide for the construction and maintenance of water works; to

provide for the purchase, improvement, equipment and maintenance of lands for parks, and for the laying, construction of sewers, drains, etc., provided such issue is approved by two-thirds of the qualified electors who are taxpayers (Laws of 1890-91, p. 53).

Illinois.—Cities in Illinois may not operate street railroads unless the proposition to operate has been approved by three-fifths of the electors thereof voting thereon. (Act of May 18, 1903, Sec. 1, Laws of Ill., 1903, p. 285.)

Cities may construct or enlarge water works and provide for the management thereof and levy a tax for these purposes provided the question is submitted to the qualified voters and approved by three-fourths of those voting thereon. (Act of May 18, 1905, amending the act of April 19, 1899, Laws of Ill., 1905, pp. 94, 95.)

Iowa.—The city council can purchase and operate water works, gas works or electric lighting plants or grant the authority to erect and maintain such works. But no such work can be carried on or franchise extended unless approved by a majority of the legal electors voting thereon at a general or special election. (Rev. Stats., 1897, Sec. 720.)

Massachusetts.—Cities may manufacture and distribute gas and electricity subject to the ratification of a majority of the voters present and voting thereon at an annual municipal election. (Acts of 1891, Ch. 370, Secs. 1, 2.)

Mississippi.—Municipalities have the right to erect, purchase, maintain and operate water works, but no contract for the erection, purchase or maintenance of water works can be entered into until approved by a majority vote of the qualified electors. (Revised Stats., 1892, Sec. 2948.)

Missouri.—Cities are empowered to erect and operate gas and water power plants, water works and electric light plants, but they cannot issue bonds until the ordinance for their issue is approved by a two-thirds vote of the qualified electors voting at an election for that purpose. (Laws of 1893, p. 60.)

North Dakota.—Cities may purchase and maintain a system of water works but if such purchase necessitates an annual payment greater than annual levy of seven mills upon each dollar of the assessed valuation, such purchase must be ratified by a majority of the voters of the city voting at the election for that purpose. (Revised Stats., 1899, Sec. 2459.) This law does not apply to cities whose charters give them the right to operate waterworks.

South Carolina.—Cities and towns may acquire by construction or purchase and may operate water works systems and plants for furnishing light provided that no such construction or purchase

be made except upon the vote of a majority of the electors qualified to vote on the question of bonded indebtedness. (Const. S. C., VIII, 5.)

Wisconsin.—Cities may purchase systems of water works or lighting plants, but if it is necessary to issue bonds in order to do so the proposition must be submitted to the electors and approved by a majority of them. (Rev. Stats., 1898, Secs. 9, 59-961.)

CITY CHARTERS.

Denver.—Twenty-five per cent. of the qualified electors of Denver may submit a petition requesting the acquisition of any public utility. Upon receipt of such petition the council must submit the matter to the board of public works and direct that the board investigate the feasibility of the acquisition. If after investigation the board finds the plan feasible in the sense specified by the charter (Sec. 255), it is required to prepare and recommend to the council a bill for an ordinance providing for the acquisition of the public utility named in the petition. If such an ordinance is passed by the council, the question of whether bonds shall be issued must be submitted to the taxpaying electors and if a majority of those voting thereon approve of the bond issue then the public utility must be acquired. (Charter of Denver, Secs. 252-257.)

San Francisco.—The city may acquire water works, gas works, electric lighting plants, steam, water or electric power works, telephone lines, street railroads and other public utilities with the consent of the people. In case the cost of the public utility to be acquired can be paid out of the annual revenues, a majority vote is sufficient, but if the acquisition necessitates incurring bonded indebtedness, a two-thirds vote of those voting on the proposition is required. (Charter of San Francisco, Art. XII, Secs. 1-4.)

(c) *The lease or sale of a public utility.*

San Francisco.—Unless otherwise provided in the state constitution or in the city charter any ordinance for the sale or lease of a public utility must be submitted to a vote of the electors at the next election after its adoption. (Charter, Art. II, Ch. I, Sec. 21.)

(d) *Purchase of land.*

San Francisco.—Except as otherwise provided in the state constitution or in the city charter any ordinance for the purchase of land of over \$50,000 in value must be submitted to popular vote. (Charter, Art. II, Ch. I, Sec. 21.)

(e) *Incurring debt beyond the income for any year.*

In sixteen state constitutions there are provisions forbidding cities to incur indebtedness in excess of the income for any year or in

some cases above a certain per cent, without submitting the question to a vote either of the tax-paying electors or of all the qualified voters. (See Pt. One, V, 1, (1), (2).)

(f) *Loaning the city credit.*

In five states cities may loan their credit to associations or corporations or involve the city credit in some other manner only with the consent of the electors: Kansas Rev. Stats., 1901, Secs. 5885-5891 (Railroad Companies. Majority vote); Md. Const., XI, 7 (Baltimore is forbidden to make grants for internal improvements which involve the credit of the city unless with the approval of a majority of the voters); Neb. Const., XIV, 2 (Must be submitted to the qualified electors); N. C. Const., VII, 7 (Majority vote); N. D. Const., Sec. 185 (Two-thirds vote); Tenn. Const., II, 29 (If the legislature authorizes cities to lend their credit a three-fourths vote of their qualified electors must be required).

(g) *Grants to railroad companies.*

Iowa.—Cities may grant money to any railroad company incorporated under the laws of the state if the electors approve the appropriation. (Iowa Rev. Stats., 1897, Secs. 2084-2085.)

(h) *Becoming stockholders in a railroad company.*

Kansas.—Whenever two-fifths of the resident tax payers of any incorporated city petition that there be submitted a proposition to subscribe to the capital stock of any railroad company a special election must be called. If a majority of the qualified electors voting at such election approve the proposition, the subscription is made. (Kan. Rev. Stats., 1901, Secs. 5885-5891.)

IV. THE INITIATIVE AND REFERENDUM.

GENERAL STATE LAWS.

Illinois.—In cities, villages, incorporated towns, counties, and school districts, 25 per cent. of the registered voters may by written petition require the proper election officers to submit to popular vote any question of public policy which the petition may indicate. The vote may be taken at any general or special election named in the petition, provided the petition is filed with the proper election officials at least 60 days before the election named. Not more than three such propositions can be submitted at any one election. (Ill. R. S., Ch. 46, Secs. 428, 429; Ill. L. 1901, p. 198.) The votes on these public policy questions have no binding effect legally. They are merely indications of public sentiment and as such may or may not be treated as directory by the city council or other legislative body to which directed.

Nebraska.—Upon the petition of fifteen per cent. of the voters of a city any ordinance or legislative measure may be proposed and must be submitted to a direct vote at the first regular election held after the expiration of thirty days. If twenty per cent. of the voters sign the petition a special election must be called. (Law of 1897, Rev. Stats. Neb., 1905, Sec. 3396.)

Oregon.—The amendment to the constitution of Oregon adopted June 4, 1906 reserved to the legal voters of all municipalities the right of initiative and referendum. The cities are given the power to provide for the manner of its exercise so far as it relates to their municipal legislation. However, not more than fifteen per cent of the legal voters may be required to propose any measure by the initiative. (Const Ore., IV, 1a.) Portland had already been granted this power by the charter of 1903. (Cf. statement regarding Portland in this section under "City Charters.")

South Dakota.—Five per cent. of the legal voters of any city may propose any law, ordinance or resolution and have it voted on by the people at a special election to be held within thirty days following the filing of the petition. A law so proposed goes into effect if approved by a majority of the votes cast thereon. (S. D., Laws of 1899, Ch. 94, Secs. 10-13.)

CITY CHARTERS.

Denver.—On petition of twenty-five per cent. of the qualified electors any proposed ordinance may be submitted to the council. When an ordinance is so submitted the council must either pass it without alteration or refer it to the qualified electors at the next general election, not held within thirty days after the petition is filed. A majority of the votes cast is required for the passage of such an ordinance. (Charter of Denver, Sec. 22.)

Los Angeles.—Any proposed ordinance may be submitted to the council by a petition signed by at least five per cent. of the qualified voters. One of the signers of each paper of such a petition must make oath that the statements in the paper are true and that each signature is genuine. If after examination by the city clerk the petition is found insufficient it may be amended within ten days after such certificate is made by him. When a petition is sufficient the clerk must submit it to the council without delay.

If the number of electors signing such petition is equal to fifteen per cent. of the entire vote for all candidates for mayor at the last preceding election, and the petition contains a request that the ordinance set forth be submitted forthwith to a vote of the people at a special election, the council must either pass the ordinance without alteration or submit it to a popular vote at once. If the ordinance is passed by the council but vetoed by the mayor, and

the council fails to pass it over his veto, an election must be called within five days at which the ordinance is submitted to a vote of the people. If the number of electors signing a petition is at least five per cent. but less than fifteen per cent. of the vote cast for all candidates for mayor at the last mayoralty election then the ordinance, without alteration, must be submitted by the council to a vote of the people at the next general municipal election which occurs at any time after thirty days from the date of the clerk's certificate that the petition is sufficient.

A majority of those voting on such an ordinance is sufficient to make it valid and binding, and ordinances proposed by petition or adopted by vote of the people can be repealed or amended only by a vote of the people. However the council may submit propositions for the repeal or amendment of such ordinances, to be voted on at any succeeding general city election. If such a proposition receives a majority of the votes cast thereon the ordinance to which it applies is repealed or amended accordingly.

Any number of proposed ordinances may be voted on at the same election but there may not be more than one special election within a period of six months. (Los Angeles Charter, Sec. 198a.)

Portland.—Whenever fifteen per cent. of the voters present a petition to the council that an ordinance set forth in the petition be submitted to a vote of the electors the council must submit the same at the next city election. The provisions regarding the form of the petition and oath of one signer of each paper are the same as those in the Los Angeles charter. If a majority of the votes cast upon such an ordinance is in favor of its adoption, the mayor must proclaim the fact within thirty days and after such proclamation the ordinance is considered in force. The council may not repeal the ordinance so passed but may submit amendments thereto at any succeeding election. (Charter of Portland, Secs. 53-56.)

San Francisco.—The provisions for the San Francisco charter are the same as those of Portland except that the petition is presented to the Election Commissioners instead of to the council and the Commissioners provide for the submission of the ordinance to the people and announce the result of the vote. (Charter of San Francisco, Art. II, Ch. 1, Sec. 20.)

(For the initiative and referendum in connection with the adoption and amendment of city charters, see Pt. One, II.)

* * * * *

(Note.—The section given below from the Municipal Corporations Act endorsed by the National Municipal League, suggests a charter provision which would leave to the cities themselves the option of adopting some form of direct legislation.—Ed.)

"Art. V, Sec. II. *Direct legislation; minority or proportional or other form of representation in city elections.*—The council of any city now existing or hereafter created within the State may, with the consent of a majority of the qualified voters of the city voting thereon at the next ensuing city election taking place not less than — days thereafter, establish a method of direct legislation so that qualified voters of the city may submit and a majority thereof voting may decide by direct vote propositions relative to city matters, and may also in the same manner establish minority or proportional or other method of representation as to elections to elective city offices.

"On a petition therefor, filed in the office of the mayor, signed by qualified voters of the city equal in number to two per cent. (which shall not be less than one thousand) of those voting at the last preceding city election, a proposition to establish a method of direct legislation or to establish minority or proportional or other method of representation as to elections to elective city offices, must be submitted to the qualified voters of the city at the next ensuing city election concurring at least — days thereafter; if a majority of such voters voting upon such proposition are in favor thereof, such proposition shall go at once into effect."—Municipal Program, pp. 219, 220.

V. THE RECALL.

Los Angeles.—"The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent." The procedure is as follows: A petition signed by electors entitled to vote for a successor to the person sought to be removed, equal in number to at least twenty-five per cent. of the vote cast for all candidates for the office at the last general city election, is filed with the city clerk demanding an election of a successor to the person whose removal is sought. The signatures to such a petition need not all be to one paper but one signer of each paper must make oath that the statements therein are true and that each signature is genuine. Within ten days after a petition is filed the clerk must examine it and ascertain whether it is signed by the required number of qualified voters. If upon examination the petition is found insufficient ten days are allowed for its amendment and within ten days after such amendment the clerk must make a second examination. If after the amendment the petition is still found insufficient it is returned to the person by whom it was filed. The filing of a petition which proves insufficient does not prevent the filing of another at any time. When, however, a petition is found sufficient by the clerk, he must submit it to the council without delay. The petition when sent to the council must contain a general statement of the grounds upon which the

removal is sought. If the council also finds the petition sufficient it must fix a date for holding the election requested, not less than thirty nor more than forty days from the date of the clerk's certificate to the council that the petition is sufficient.

The city council is required to cause notice of such an election to be published, and to make all necessary arrangements, but the election is conducted in the same manner as an ordinary city election. The successor of any officer sought to be removed is elected merely to fill out the unexpired term.

The person whose removal is sought may be a candidate to succeed himself and unless he requests otherwise in writing, the clerk places his name on the official ballot without nomination. In a removal election the candidate receiving the highest number of votes is declared elected. If the person who receives the highest number of votes fails to qualify within ten days after receiving notification of election, the office is considered vacant. If the person sought to be removed receives the highest number of votes he remains in office. (Charter, 198 c.)

PART THREE

THE CITY COUNCIL

I. FORM AND NUMBER OF MEMBERS.

1. THE FORM OF CITY COUNCILS.

(1) United States.

In the United States there is no uniform rule in regard to the form of city councils. The single-chamber council is found in Chicago (Act of 1872, III, Sec. 1), Cleveland, Cincinnati (Ohio Law for Municipalities, 1902, Sec. 116), Detroit (Charter, Sec. 137), Milwaukee (Revised Statutes of Wisconsin, 1898, Secs. 925-22), Indianapolis (Revised Statutes of Indiana, 1901, Sec. 3780), New Orleans (Charter, IV, Sec. 9), New York (Charter, Sec. 18), San Francisco (Charter, II, I, 1). The bicameral system is found in Baltimore (Charter, Sec. 209), Boston (Laws of Mass., 1822, p. 735), Denver (Charter, Sec. 4), Louisville (Revised Statutes of Ky., Sec. 2765), Philadelphia (P. L. 1854, p. 24; Phil. Digest, Ch. XLIV, Sec. 1), Kansas City (Charter, II, Sec. 1), St. Paul (Charter, Ch. IV, 40), St. Louis (Charter, III, Sec. 1). In the United States as a whole, about one-third of the cities over 25,000 population have the bicameral system (Fairlie: *American Municipal Councils*, XIX, Pol. Sci. Quarterly, p. 235). The city of Washington has no municipal council and in Memphis members of two administrative boards act jointly as the city council. In Galveston and Houston the powers of the ordinary city council are vested in a board of four commissioners elected at large by the voters of the whole city. (Charter of Galveston, Sec. 5, Charter of Houston, Art. V, Sec. 1.)

(Note:—See provisions from the Municipal Program at the close of the section on Organization and Procedure.—Ed.)

(2) Great Britain, Canada and Australia.

(a) *England.*

In English cities there is but a single representative chamber but it consists of two classes of members: the councilmen, elected by the people, and the aldermen and mayor elected by the council (45 & 46, Vict., C. 50, Sec. 10).

(b) *Scotland.*

In Scotland there is a single chamber, also, consisting of the councillors, elected by popular vote, and the magistrates and provost chosen by the council (63 & 64, Vict., C. 49, Sec. 5).

(c) *Canada.*

(**Ontario**).—In Toronto the council is unicameral with two classes of members, the aldermen elected by districts and four controllers elected from the city at large and forming with the mayor a board of control (Consolidated Municipal Act, 1903, Sec. 276 b).

(d) *Australia.*

The city council in Sydney is a single body, consisting of the mayor and aldermen (Statutes of New South Wales, Vol. 4, No. 30).

(3) **Continental Europe.**(a) *France.*

In France the council is a single-chambered body (French Municipal Code, I, Art. 1).

(b) *Prussia.*

In Berlin there is a single executive council. There is also a board of executive officials who resemble somewhat the aldermanic element of the English councils. They are so closely associated with the council that they have many of the characteristics of a second chamber.

(c) *Austria.*

The Vienna council is a single body.

2. NUMBER OF MEMBERS.

(1) **United States.**

The number of members in the municipal councils of America varies from four in Galveston and Houston (Charter of Galveston, Sec. 5; Houston, Art. V, Sec. 1) to 190 in Philadelphia, of which 41 are members of the Select Council and 149 of the Common Council (P. L., 1861, p. 165; P. L., 1903, p. 37; Digest, XLIV, Secs. 9, 10). Baltimore has 24 members in the upper house and 8 in the lower house (Charter, Secs. 210, 211). Boston has 75 councilmen and 13 aldermen (Acts of Mass., 1904, Chap. 404). In Chicago there are 70 aldermen sitting in the one house (Art. III., Sec. 2). Cleveland has 33 members and Cincinnati has 32 (Law for Municipalities, 1902, III, 116). Denver has 7 members in the board of supervisors and 16 in the board of aldermen (Charter, Art. II, Sec. 4 and 7). Detroit has 34 members (Charter, Sec. 84, Sec. 3, S. 4). New Orleans has 17 members in its single chamber (Charter, Art. IV, Sec. 9). New York now has 73 members (Charter, Sec. 18). Milwaukee has 46 aldermen (Revised Statutes of Wisconsin, 1898, Sec. 925). Louisville has 24 councilmen and 12 aldermen (Revised Statutes of Kentucky, 1901, Sec. 2765). San Francisco has only 18 members in the board of supervisors (Charter, II, I, Sec. 2). St. Louis has 28 members in the house of delegates and 13 in

the council (Charter, III, Secs. 1-4). St. Paul has 9 aldermen and 11 councilmen (Charter, Sec. 40).

(Note:—See the suggestion from the Municipal Program at the close of the section on Organization and Procedure *infra*.—Ed.)

(2) Great Britain, Canada and Australia.

(a) *England.*

There is no statutory provision as to the number of members of the different city councils of England except that the number of councillors assigned to each ward shall be a number divisible by three and that the number of aldermen shall be one-third of the number of councillors (45 & 46, Vict., C. 50, Secs. 14, 30).

In London the county council consists of 118 councillors, 19 aldermen, and the chairman and vice chairman, making a total of 139. Manchester has 124 members (Shaw: Municipal Government in Great Britain, p. 63).

(b) *Scotland.*

In Scotland the number of councillors for the cities is graded according to the population. The scale begins with 9 for boroughs under 10,000 inhabitants and rises to 90 for cities of 500,000 and upwards (63 & 64, Vict., C. 49, Schedule II). The number of councillors in boroughs existing before the passage of the above act need not be changed by the act (63 & 64, Vict., C. 49, Sec. 10). Glasgow has 82 members in its council.

(c) *Canada.*

Including the mayor and the four controllers elected at large, Toronto has 23 members in its municipal council (Consolidated Municipal Act, 1903, Sec. 276 b.)

(d) *Australia.*

Sydney has 24 aldermen in its municipal council (Statutes of New South Wales, Vol. 4, No. 30; Secs. 3 and 19.)

(3) Continental Europe.

(a) *France.*

In France the composition of the municipal councils is regulated by the Municipal Code. There is a fixed scale according to the population. The maximum is 36 members for the cities of over 60,000 inhabitants, but a special exception is made in the cases of Paris and Lyons, the former being given 80 members and the latter 54 (French Municipal Code, II, I, Sec. 10).

(b) *Prussia.*

In Prussia the number of councilmen in any city depends upon its size and ranges from 12 in cities of less than 2,500 inhabitants, to 60 in cities between 90,000 and 120,000 inhabitants. To cities exceed-

ing 120,000 inhabitants are assigned 6 councilmen for each additional 50,000 of population. Any change in the number of members must be made by special ordinance (St. O., Sec. 12). Berlin has at present 144 members.

(c) *Austria.*

The new Vienna council consists of 118 members.

II. QUALIFICATIONS, MANNER OF ELECTION, TERM AND SALARY OF MEMBERS.

1. QUALIFICATIONS.

(1) United States.

(a) *Residence qualifications.*

The most general requirement for members of the municipal councils of the United States is residence in the city and in the ward from which they are elected.

Baltimore.—In Baltimore members of the First Branch of the council must have been residents of the city and of the ward from which they are elected for three years preceding their election. The members of the Second Branch (elected at large) must have been residents of the city for four years (Charter, Secs. 210, 211).

Boston.—In Boston residence in the state a year and within the city for 6 months preceding the election is required (Mass. Acts of 1875, Ch. 3, Sec. 5).

Chicago.—In Chicago a qualified elector, resident within the ward for which he is elected is eligible to the office of alderman (Act of 1872, III, Sec. 5).

Cleveland.—In Cleveland and Cincinnati where there are two classes of members, the councilmen at large must have resided in the city and the councilmen from wards in their respective wards for at least one year preceding their election (Law for Municipalities, 1902, Sec. 120).

Denver.—In Denver members of the council must have resided in the territory comprising the city and county for at least two years. Aldermen must be residents of the wards which they represent (Charter, Sec. 8).

Detroit.—Detroit requires that the members of the council be resident electors of the city and of the wards which they represent (Charter, Sec. 89).

New Orleans.—In New Orleans, members of the council must be actual residents of their ward or district for at least one year preceding their election and residents of New Orleans for five years preceding their election (Charter, Art. IV, Sec. 9).

New York.—New York requires that the aldermen merely be residents of the city (Charter, Sec. 20).

Philadelphia.—In Philadelphia members of both the Select and Common Council must have been citizens and inhabitants of the state for 4 years, and inhabitants of their respective districts 1 year next before their election (P. L. 1854, pp. 24, 40. Phil. Digest, XLIV, Secs. 1, 12).

San Francisco.—In San Francisco every member of the Board of Supervisors must be at the time of his election an elector of the city and county, and must have been such for at least 5 years next preceding his election (Charter, II, Sec. 2).

St. Louis.—In St. Louis members of the council must have been citizens of the state for 5 years, and inhabitants of the city for 1 year next before the day of election; members of the House of Delegates must have been residents of the city for 3 years and of the wards which they represent for 1 year before their election (Charter, Art. III, Secs. 2, 5).

St. Paul.—In St. Paul the aldermen must be qualified electors and residents of the wards by which they are chosen (Charter, II, Sec. 9).

Kansas City.—In Kansas City members of the Upper House must have resided 3 years in the city, and members of the Lower House must have resided 1 year in the ward which they represent (Charter, II, 4).

(b) *Age.*

Some of the cities require that a member of the council shall have reached a certain age, but most simply require that he be a voter.

Baltimore.—In Baltimore members of the First Branch must be above 21 years, while members of the Second Branch must be above 25 years (Charter, Secs. 210, 211).

Boston.—In Boston members of the council must be 21 or upward (Mass. Acts of 1872, Ch. 243).

Denver and New Orleans require that the members of their councils be 25 at least (Charter of Denver, Sec. 8; Charter of New Orleans, Art. IV, Sec. 9).

Philadelphia.—In Philadelphia members of the Select Council must be 25 years of age, and members of the Common Council must be 21 (P. L. 1854, Sec. 4; Phil. Dig. XLIV, Secs. 1, 12).

San Francisco.—In San Francisco the requirement that members must have been electors of the city for five years operates as to exclude anyone under 26 (Charter, II, 2).

St. Louis.—The members of the council must be at least 30 years and must have been a state and city taxpayer for two years preceding election (Charter III, Secs. 2, 5).

Kansas City.—In Kansas City members of the Upper House must be at least 25 years old, while members of the Lower House must be at least 21 (Charter, II, Secs. 3, 4).

(c) *Property.*

The property requirement is not frequent in the United States, but is found in Baltimore, Boston, Denver, Kansas City, Louisville and St. Louis.

Baltimore.—In Baltimore members of the First Branch must be assessed with property to the amount of \$300, and have paid taxes on the same one year prior to their election. Members of the Second Branch must have been assessed with property in the sum of \$500, and have paid taxes on the same for 2 years prior to election (Charter, Secs. 210, 211).

Boston.—In Boston members of the council must have paid a state or county tax within 2 years (Mass. Acts of 1875, Ch. 243).

Denver.—Denver requires that members of the council shall be taxpayers for at least one year preceding their election (Charter, Sec. 8).

Kansas City.—In Kansas City members of both houses must have paid city and state taxes for 1 year next before the day of their election, and must at the time of their election be owners of real estate in the city (Charter, II, 1).

Louisville.—In Louisville members of the council must be house-keepers or owners of real estate in the city (Revised Statutes of Ky., 1899, Sec. 2768).

(d) *Educational qualification.*

In Boston, persons unable to read the constitution and write their names are not eligible to the city council (Mass. Acts of 1875, Ch. 243). In Detroit, members of the council must be able to read and write the English language intelligibly (Charter, Sec. 92).

(c) *Miscellaneous qualifications.*

Many of the cities require that the members of the council shall not hold any other public office under the city government:—Chicago (Act of 1872, III, Sec. 5), Cleveland and Cincinnati (Ohio Law of Municipalities, 1902, Sec. 120), Denver, (Charter, Sec. 8), Detroit, (Charter, Sec. 94), New York (Charter, Sec. 36), Philadelphia (P. L. 1874, pp. 187, 188. Phil. Digest, XLIV, Sec. 18). In St. Paul a member of the council cannot hold any other city office except an office elective by the people (Charter, II, Sec. 6).

Some cities require that members of the council shall not be interested directly or indirectly in any contract whatever to which the city is a party. Such a requirement is found in Chicago (Law of 1872, III, Sec. 5), Detroit (Charter, Sec. 94), Cleveland (Ohio, Law for Municipalities, 1902, Sec. 120), Denver (Charter, II, Sec. 8), New York (Charter, Sec. 36), St. Louis (Charter, III, Sec. 6).

Persons convicted of malfeasance in office, bribery, or other corrupt practices are disqualified for membership in the councils of some of the cities,—Chicago (Act of 1872, III, Sec. 5), Denver (Charter, Sec. 8), St. Louis (Charter, III, Sec. 6). In New Orleans the members of the council must never have been convicted of any crime (Charter IV, Sec. 9).

(2) **Great Britain, Canada and Australia.**

England.—In England, any person enrolled as an elector in the city is eligible to the council. In addition suburban residents living within 15 miles of the limits and having the other qualifications for burgesses are eligible providing they have real or personal property to the value of 1,000 pounds, or are rated to the poor rate in the borough on the annual value of 30 pounds. Thus, all municipal electors and a small propertied class of non-electors are eligible for election to the municipal council (45 and 46 Vict. C. 50, Sec. 11).

“A person is disqualified for being elected and for being a councillor, if and while he—

(a) Is an elective auditor or a revising assessor, or holds any office or place of profit, other than that of mayor or sheriff in the gift or disposal of the council, or

(b) Is in holy orders, or the regular minister of the dissenting congregation (this is not a disqualification in London,—51 and 52 Vict. C. 41), or

(c) Has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council. But a person shall not be so disqualified or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in—

(1) Any lease, sale, or purchase of land, or any agreement for the same, or

(2) Any agreement for the loan of money, or any security for the payment of money only, or

(3) Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted, or

(4) Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough, or

(5) Any railway company, or any company incorporated by act of Parliament or royal charter or under the Companies' Act, 1862." (45 and 46 Vict. C. 50, Sec. 12).

A woman, though qualified to elect, is not qualified to be elected to municipal councils in England (*Beresford-Hope v. Lady Sandhurst*, 23 Q. B. D., 79).

Any British subject who owns land in London or who is possessed of a certain amount of property, no matter where he lives, may be chosen a councillor of the county of London (Local Govt. Act of 1888, 51 and 52 Vict. C. 41, Sec. 21).

Scotland.—In Scotland any male elector in the city is eligible to the office of councillor. A person is disqualified if he—

1. Is an adjudged bankrupt.

2. Holds any office or place of profit in the gift or disposal of the council.

3. Has, directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council, provided that a person shall not be so disqualified or be deemed to have any share or interest in such a contract or employment by reason only of his having any share or interest in—

(a) Any agreement for the loan of money, or any security for the payment of money only, or

(b) Any newspaper in which any advertisement relating to the affairs of the city or council is inserted, or

(c) Any company which contracts with the council for lighting, or supplying with water, or insuring against fire, any part of the burbh, or any property of the town council, or insuring persons in the employment of the town council against accident, or

(d) Any railroad company or any company incorporated by Act of Parliament or Royal Charter, or under the Companies' Act (63 and 64 Vict. C. 49, Sec. 13 of Scots Statutes).

Canada.—In Ontario a member of the council must reside within the municipality or within two miles thereof, must be a natural born or naturalized subject of His Majesty, a male of the full age of 21 years, and must have, in his own or his wife's name, as owner or tenant, property which was assessed on the last revised assessment roll of the

municipality to the amount of \$1,000 if it is a freehold, or \$2,000 if a leasehold, over and above all charges, liens, and incumbrances affecting the same. If the freehold is rated at not less than \$2,000 the value is not affected or reduced by any lien, incumbrance or charge (Consolidated Municipal Act, Sec. 76).

In Ontario the following are disqualified from sitting in the council:

Judges of any court of city jurisdiction, gaolers or keepers of houses of correction, sheriffs, deputy sheriffs, sheriff's bailiffs, assessors, collectors, treasurers, clerks of the municipality, bailiffs of any division court, county crown attorneys, registrar deputies, clerks of the crown, clerks of the county court, clerks of the peace, High School trustees, members of the school board for which rates are levied, innkeepers or saloonkeepers, or shopkeepers licensed to sell spirituous liquors, license commissioners, inspectors of licenses, police magistrates, persons having by themselves or partners any interest in any contract with or on behalf of the corporation, or any person who, either by himself or with or through another has any claim, action or proceeding against the municipality, and any person who is counsel or solicitor either by himself or with or through another in the prosecution of any claim, action or proceeding against the municipality; but shareholders in any incorporated company having dealings or contracts with the council or any such municipal corporation or having a lease for 21 years or upward of any property from the corporation are not disqualified, but no such leaseholder can vote in the council on any question affecting any lease from the corporation and no such shareholder on any questions affecting the company (Consolidated Municipal Act, Sec. 80).

Every qualified person elected to the office of councillor must accept or pay a fine. The following classes are, however, exempt: All persons over sixty years of age; all members and officers of the legislative assembly of Ontario and of the Senate or House of Commons of Canada; all persons in the civil service of the crown; all judges, coroners, persons in priests' orders, clergymen, and ministers of the gospel of every denomination; members of the Law Society of Upper Canada; all solicitors in actual practice; all officers of courts of justice; all members of the medical profession, professors, masters, teachers and other members of the university, college or school in Ontario; millers and firemen belonging to any authorized fire company (Consolidated Municipal Act, Sec. 84).

Australia.—Any male person on the citizen's roll for any ward of the city of Sydney is qualified to be elected as alderman (Statutes of New South Wales, Vol. 4, No. 30, Sec. 16).

(3) Continental Europe.

France.—In France members of the council must be 21 years old. In other respects, they have the same qualifications as voters. How-

ever, the number of councillors who do not reside in the commune at the time of election must not exceed one-fourth of the members of the council (French Municipal Code, II, I, 31). The following are disqualified:

(a) Soldiers and employees of the land and sea armies in active service.

(b) Those who are exempted from contributing to the communal taxes and those who are aided by the bureaus of beneficence.

(c) Domestics attached exclusively to the person (Art. 32).

The following are not eligible in the jurisdiction in which they perform their functions:

(a) The prefects, sub-prefects, secretaries general, and councillors of the prefecture.

(b) The commissaries of police and police officers.

(c) Magistrates of courts of appeal and of tribunals of first instance.

(d) The incumbent justice of the peace.

(e) The accountants of the communal funds and the contractors for municipal services.

(f) The public school teachers.

(g) The employees of the prefecture and the sub-prefecture.

(h) The engineers and conductors of bridges and embankments charged with service on the city and parish roads, and the overseers of roads.

(i) Ministers in the exercise of a legally recognized form of worship.

(j) Salaried agents of the commune, among whom are not included those who, being public functionaries or exercising an independent profession, receive pay from the commune only by reason of the services which they render in the practice of their profession (French Municipal Code, Art. 32).

Prussia.—In the Prussian cities one-half of the councilmen from each class must be householders (St. O. Sec. 16). The courts have held, however, that a part interest, however small it may be, in a house qualifies a citizen for election to the council under Sec. 16 of the City Government Act. Other than this, any qualified voter is eligible to the office of councillor.

2. MANNER OF ELECTION.

(1) United States.

There are three systems of representation in the election of municipal councils in the United States—election by wards or districts,

elections by general ticket and the mixed system. The former is by far the more common, especially for single-chambered bodies. In the cities which have two chambers, the larger is usually elected on the district plan and the smaller at large.

Baltimore.—In Baltimore, the First Branch consists of one member from each ward of the city; the Second consists of eight members, two being chosen from each of the four councilmanic districts into which the city is divided (Charter, 210, 211).

Boston.—In Boston, the 13 aldermen are chosen at large, while 3 councilmen are elected from each of the 25 wards (Mass. Acts and Resolves, 1893, Ch. 417; 1904, Ch. 404).

Chicago.—Chicago elects two aldermen from each of the 35 wards (Act of 1872, III, 2).

Cleveland and Cincinnati.—The new Ohio law for municipalities requires that one member of every five shall be elected at large, and the remainder from wards (Ohio Law for Municipalities, 1902, Sec. 116).

Denver.—Where the county and city government are consolidated the council consists of two houses—a Board of Supervisors and a Board of Aldermen. The 7 members of the Board of Supervisors are elected by the city and county at large, but there must be one supervisor for each supervisor district; and no person not a resident of the supervisor district from which he is elected is eligible for membership in the Board of Supervisors (Charter, Sec. 4). The aldermen are elected by wards, one from each ward of the city and county (Sec. 7).

Detroit.—Two members are elected from each of the 17 wards (Charter, Sec. 84).

Galveston and Houston.—The boards which take the place of councils are elected at large (Charter of Galveston, Sec. 5; Charter of Houston, V, Sec. 1).

New York.—Of the 79 members of the New York council, 73 are elected, one from each of the aldermanic districts; the president is chosen on a general ticket and the five presidents of the boroughs are elected by their respective boroughs (Charter, Sec. 18, 382).

New Orleans.—Elects one member from each of the 17 wards (Charter, IV, Sec. 9).

Philadelphia.—The select council is elected by wards, each ward having one member, irrespective of population, while in the common council the representation of wards is apportioned on the basis of population, each ward of the city having a member for every 4,000 qualified voters (Phil. Digest, XLIV, Secs. 9, 10).

San Francisco.—The members of the Board of Supervisors, which takes the place of the council, are all elected from the city and county at large (Charter, II, Sec. 2).

St. Louis.—In St. Louis, the 13 members of the council are chosen on a general ticket by all the qualified voters of the city, while the House of Delegates is elected by wards, one from each ward (Charter, III, Secs. 2, 4).

St. Paul.—The 9 members of the assembly are chosen at large by and from the body of electors, while one alderman is elected by and from the electors of each of the 11 wards (Charter, II, Sec. 8).

(Note:—See the suggestion from the municipal program at the close of the Section on Organization and Procedure *infra*.—Ed.)

(2) Great Britain, Canada and Australia.

England.—There are two classes of members in the city councils of England—the councillors, elected by the people, and the aldermen, chosen by, but not necessarily from, the councillors. The number of aldermen must be one-third of the number of councillors (45 and 46 Vict. C. 50, 14). The largest English towns are, as a rule, divided into wards, each of which sends 3 members to the council, one being chosen each year.

The London council is somewhat different from those of the rest of the country. The Local Government Act of 1888 formed the metropolis into the administrative county of London and gave it an elected county council, closely patterned after the borough councils, but different from them in some respects. The districts for the purpose of representation in the House of Commons into which the metropolitan area is divided, were taken as the divisions for the election of councillors, and the number of councillors was fixed at twice the number of members of Parliament (51 and 52 Vict. C. 41, Sec. 40). There were 57 districts besides the city proper within the metropolitan area. Each of the 57 districts was given 2 members, while the city proper was allowed 4, making in all 118 members. The aldermen are chosen by the councillors as in the other cities, but the number of aldermen in the London council cannot exceed one-sixth of the whole number of councillors (51 and 52 Vict. C. 41, Sec. 40, 5). There is no distinction between councillors and aldermen except in the manner of election. They deliberate together and their powers are identical.

Scotland.—In Scotland, the councillors are elected by the burgesses, 3 or a multiple of 3 for each ward, as in England. But the magistrates, corresponding to the aldermen in England, must be chosen by the council from their own number, whereas in England any qualified burgess may be chosen (63 and 64 Vict. C. 49, 51).

Canada.—In Toronto, the 4 controllers are elected from the city at large and the aldermen are elected from wards, 3 from each of the 6

wards of the city; but an alderman need not be a resident of the ward from which he is chosen (Consolidated Municipal Act, 1903, 276 b).

Australia.—In Sydney, two aldermen are elected from each of the 12 wards (Statutes of New South Wales, Vol. 4, No. 30, Secs. 3, 19).

(3) Continental Europe.

France.—The general rule in French cities is that the members of the municipal council shall be elected by general ticket. But communes of more than 10,000 people may be divided into electoral districts, if they desire. But these sections or wards must elect at least 4 councillors (French Municipal Code, II, I, 11). Paris has adopted the districts system and elects 4 members from each of the 20 arrondissements. Each arrondissement is subdivided into 4 quarters, and each quarter elects a municipal councillor.

Prussia.—In Prussia, the Magistrat is charged with the duty of dividing the city into election districts and of apportioning representation among them according to the number of voters in each district. There are at present in the council of Berlin 144 members. The term of service is 6 years and one-third of the members are elected every two years. Thus each class elects one-third, or 16, of its members every two years (Cf. "Three Class System," Pt. Two, II, I, 4). The city is divided into 16 election districts for the first and second classes and into 48 for the third class. Each of the districts of the first and second classes elects one councilman every two years. Of the 48 districts of the third class, 16 districts elect one representative every two years. Elections in the third class are held first, in the first class last, the intervals between elections in the different classes being not longer than a few days.

Austria.—For the election of the municipal councillors Vienna is divided into 19 permanent districts, and to each is assigned a number of representatives that is divisible by three. Councillors are elected for 6 years, and one-half of the body is renewed every two years. The voters of each class in a given district are entrolled as a separate voting body. Thus, a district which is entitled to 9 members will have 3 places to fill every two years, and the voters of each class will elect one member (Cf. Pt. Two, II, 5). The three bodies vote on different days, but the electors of one class in Vienna often choose members of another class to represent them in the council.

3. TERM OF THE MEMBERS OF CITY COUNCILS.

(1) United States.

Regarding the term of service in municipal councils there is no universal rule for the United States, and the practice varies from one

to four years. Annual elections are almost universal in New England, but outside of that section longer terms have been adopted in all of the large cities. Two years may be considered as the prevailing type of American council although there are important exceptions to that rule. In those cities which have two chambers, the members of the smaller chamber are usually elected for a longer term than the members of the larger house.

Baltimore.—In Baltimore, members of the First Branch are elected for 2 years, and members of the Second Branch for 4 years, one-third retiring biennially (Charter, 210, 213).

Boston.—In Boston, both the councilmen and aldermen are elected for 1 year (Mass. Acts and Resolves, 1854, Ch. 448, Sec. 20; 1904, Ch. 404).

Chicago.—In Chicago, the councilmen are chosen for 2 years, one-half every year (Act of 1872, IV, 4).

Cleveland.—As in Chicago, the councilmen hold their office for 2 years, one-half retiring annually (Ohio, Law for Municipalities, 1902, Sec. 116).

Detroit.—In Detroit, the term is 2 years (Charter, Sec. 84).

Denver.—In Denver, members of the Board of Supervisors are elected for the term of 4 years, one-half being chosen biennially. Members of the Board of Aldermen are chosen for 2 years (Charter, Secs. 6, 7).

New Orleans.—In New Orleans, the term of the councilmen is 4 years (Charter, III, Sec. 3).

New York.—In New York, the term is 2 years (Charter, Sec. 18).

Philadelphia.—In Philadelphia, members of the Common Council serve for 2 years; those in the Select Council for 3 years (Phil. Digest, XLIV, Sec. 11).

San Francisco.—In San Francisco, the term is 2 years (Charter II, 2).

St. Louis.—In St. Louis, the members of the House of Delegates have a 2-year term, while the members of the council are elected for 4 years, one-half retiring every 2 years (Charter, II, Secs. 3, 4).

St. Paul.—St. Paul has a 2-year term for both houses (Charter, II, Sec. 6).

(Note:—See the provisions from the Municipal Program at the close of the section on Organization and Procedure, *infra*.—Ed.)

(2) Great Britain, Canada and Australia.

England.—In England, the term of office of a councillor is 3 years, and one-third of them retire annually—except that in London the whole body is elected every three years (45 and 46 Vict. C. 50, Sec. 13; 51 and 52 Vict. C. 41, Sec. 2). The aldermen chosen by the councillors are selected for 6-year term, and one-half every three years (45 and 46 Vict. C. 50, Sec. 14).

Scotland.—The councillors hold office for 3 years as in England, but the bailies (aldermen), who must be elected from the councillors, hold office from the date of their election to the date at which they would retire as councillors (Scots Statutes, 63 and 64 Vict. C. 49, Sec. 57).

Canada.—In Ontario, the municipal councillors may be elected annually or biennially (Consolidated Municipal Act, Sec. 95).

Australia.—In Sydney, the aldermen hold office for two years (Statutes of New South Wales, Vol. 4, No. 30, Sec. 16).

4. Salary of Councilmen.**(1) United States.**

Baltimore.—In Baltimore, the members of both houses receive \$1,000 per annum (Charter, Secs. 210, 211).

Boston.—In Boston, councilmen receive \$300 per year, and aldermen \$1,500.

Chicago.—In Chicago, the aldermen receive \$1,500 per annum (Revised Municipal Code, 1905, 8).

Denver.—Members of the Board of Supervisors receive \$1,200 a year, and aldermen \$1,000 (Charter, Sec. 153).

Cleveland.—The Ohio law provides that the salary of members of councils shall in no city be greater than \$1,200 per annum (Ohio Law of Municipalities, 1902, Sec. 126). Cleveland has fixed the salary of its aldermen at \$600, and Cincinnati at \$1,200.

Detroit.—In Detroit, the members of the council receive \$1,200 a year (Charter, Sec. 158).

New Orleans.—The members of the council receive \$20 for attendance at each regular meeting (Charter, IV, 10).

New York.—In New York, the members of the council receive \$1,000 a year, and the president of the council \$5,000 (Charter, Sec. 18).

Philadelphia.—Members of the council receive no salary.

San Francisco.—In San Francisco, each supervisor receives an annual salary of \$1,200 (Charter, II, 2).

St. Louis.—Each member of the assembly receives \$300 per year, and no more, but he may be paid his reasonable expenses, authorized and incurred in official service, to be approved by the house of which he is a member (Charter, Art. III, Sec. 14).

St. Paul.—In St. Paul, members of the assembly receive only \$100 per year (Charter, Sec. 560).

Portland.—In Portland, each member of the council by way of compensation is allowed \$5 for each council meeting, and \$3 for each committee meeting, but such compensation is allowed only for meetings actually attended by such member, and may not exceed \$25 to any one member in any one calendar month (Charter, Sec. 44).

(Note:—See the provisions from the Municipal Program at the close of the section on Organization and Procedure, *infra*.—Ed.)

(2) Great Britain, Canada and Australia.

England and Scotland.—No salaries are paid to councillors and aldermen in Great Britain. Moreover, every qualified person elected to the office of councillor or alderman must accept the office within five days after notice of election or pay a fine not exceeding £50 as the council determines. Certain persons, however, are exempted from the fine if they refuse to serve, namely—

(a) Any person disabled by lunacy, or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body.

(b) Any person who is above the age of 64 years, or has within 5 years before the day of his election either served as councillor or paid the fine for non-acceptance thereof (45 and 46 Vict. C. 50, 34).

Canada.—In cities of Ontario with a population of \$100,000 or more, aldermen receive \$300 per year, and chairmen of the standing committees receive \$400 (Consolidated Municipal Act, Sec. 538).

(3) Continental Europe.

France.—A Paris councillor is not supposed to draw any salary, but he allows himself 6,000 francs (\$1,200) a year for expenses (Shaw, *Municipal Government in Europe*, p. 22).

Prussia.—In Prussia, no salary is paid to a councillor and a penalty is attached to refusal to serve if elected (*Municipal Corporation Act of 1808*).

Austria.—Members of the Vienna council are not paid (Shaw, *Municipal Government in Continental Europe*, p. 415).

TABLE I STATISTICS OF CITY COUNCILS, 1906

	SINGLE OR LARGER HOUSE						SMALLER HOUSE							
	No. of Members	Chosen at Large	Chosen by Council	No. from each District	No. chosen each year	TERM	SALARY	No. of Members	Chosen at Large	Chosen by Council	No. from each District	No. chosen each year	TERM	SALARY
Baltimore . .	24	0	0	1	All every two years	2 years	\$1,000	9	1	0	2	4 chosen every two years	4 years	\$1,000
Boston . .	75	0	0	3	75	1 year	\$300	13	13	0	0	13	1 year	\$1,500
Chicago. . .	70	0	0	2	35	2 years	\$1,500							
Cleveland . .	33	6	0	1	1/2	2 years	\$600							
Denver . .	16	0	0	1	All every two years	2 years	\$1,000	7	7	0	1	As near as possible 4 or 5 yrs	4 years	
Detroit . .	34	0	0	2	"	2 years	\$1,200							
New Orleans .	17	0	0	1	All every four years	4 years	\$240							
New York . .	79	6 ¹	0	1	All every two years	2 years	\$1,000	41	0	0	1	1/3	3 years	none
Philadelphia .	149	0	0	1 for every 4,000 Inhabit.	"	2 years	none							
San Francisco.	18	18	0	0	"	2 years	\$1,200							
St. Louis . .	28	0	0	1	"	2 years	\$300	13	13	0	0	6 chosen every two years	4 years	\$300
Glasgow . .	83	0	20	3	1/3	3 years	none							
London . .	139	0	19	2	1/3	3 years	none							
Manchester .	124	0	31	3	1/3	3 years	none							
Toronto. . .	23	5	0	3	23	1 year	\$300							
Berlin . .	144	0	0	See Part Three, II, 2 (3)	1/2 every two years	6 years	none							
Paris . .	80	0	0	4	All every three yrs.	4 years	none							
Vienna . .	118	0	0	A number divisible by 3	1/2 every two years	6 years	none							

1. The president of the council is elected from the whole city, while the presidents of the five boroughs into which the city is divided are elected from their respective boroughs.

III. METHOD OF ORGANIZATION AND PROCEDURE.

(1) United States.

Baltimore.—The city council meets on the Thursday next after the third Monday in May of each year, and may continue in session for 120 days, and no longer, in each year; provided, that they may, by ordinance or resolution, so arrange their sitting that the same may be held continuously or otherwise; and, provided further, that the mayor may convene the city council in extra session.

The First Branch appoints its own President, while the President of the Second Branch is chosen by the voters at large for 4 years. A joint convention of the two branches of the city council, by a majority vote of all the members, may remove the President of the Second Branch from office for incompetency, willful neglect of duty or misdemeanor in office, upon charges preferred by the mayor; notice of such charges must be given to the President of the Second Branch, and an opportunity afforded him to be heard. The President of both Houses have a vote on all questions.

Each branch of the city council adopts its own rules of procedure; is judge of the election and qualifications of its own members, subject to appeal by petition to the Baltimore City Court; may, by a three-fourths vote of all the members of either branch, expel any member for disorderly behavior or misconduct in office; can compel the attendance of absent members, in such manner and under such penalties as it may provide by ordinance; appoints its own officers, regulates their compensation and may remove them at pleasure; sits with open doors; keeps a journal of its proceedings, and must enter the yeas and nays on any question, resolution or ordinance, at the request of any member.

All vacancies in the First Branch are filled by an election in the ward in which the vacancy occurs. If a vacancy occurs in the Second Branch, that branch fills the vacancy by the election of a person, possessing the qualifications required for that office, from the proper councilmanic district.

Every legislative act is by ordinance or resolution, and in order to pass, requires a majority vote of all the members elected to each branch. On final passage the vote must be taken by yeas and nays, the names of members voting for and against the same being entered on the journal. Every ordinance must embrace but one subject, which must be described in its title, and no ordinance can be revived, amended or re-enacted by mere reference to its title. No ordinance becomes effective until it is read on three different days in each branch, unless all the members elected to the branch where such ordinance is pending shall so determine by a yea and a nay vote, and no ordinance can be read a third time until it has been actually engrossed for a third reading.

All ordinances or resolutions duly passed by the council, after having been properly certified by the Presidents of the First and Second Branches of the city council as having been passed, must be presented to the mayor for his approval; and there is noted on the ordinance or resolution the date of its delivery. When approved by him, they become valid ordinances or resolutions. If the mayor does not approve, he returns the ordinance or resolution with his objections in writing to the branch in which it originated within 5 days of actual regular sittings of said branch (excluding special sittings called by the mayor), occurring after the delivery of the ordinance to him. The objections of the mayor are forthwith read to such branch and entered at large on the journal; and the branch must, after 5 days and within 10 days after the ordinance has been returned to it, proceed to reconsider and vote upon the vetoed measure. If such measure is again passed by a three-fourth vote of all the members elected to each branch of the council it becomes an ordinance. If the mayor does not return an ordinance to the branch of the city council in which it originated, within 5 days of its actual regular sittings, excluding special sittings called by the mayor, it takes effect as if approved, unless the city council by an adjournment *sine die*, or for a period exceeding one month, prevents its return (Charter, Secs, 214, 216, 217, 221, 222.)

Boston.—The board of aldermen and the Common Council sit and act as separate bodies except in those cases in which they meet in convention. Each chooses a permanent chairman from among its members; sits with open doors; keeps a journal of its proceedings; adopts the rules of its own procedure; and in each a majority constitutes a quorum for the transaction of business.

The mayor has power to summon meetings of the board of aldermen and common council, or either of them, even though the meetings of the boards stand adjourned to a more distant date.

Every ordinance, order, resolution, or vote, to which the concurrence of the board of aldermen and of the common council is necessary, and every order of either branch involving the expenditure of money, must be presented to the mayor. If he approves, he signs it; if not, he returns it, with his objections, to the branch in which it originated. If two-thirds of the members of both houses again vote for the bill, it becomes a law in spite of the mayor's vote. If the ordinance, order, resolution, or vote is not returned by the mayor within 10 days after it is presented, it has the force of law without his approval (Mass. Acts and Resolves; 1854, Ch. 448, Secs. 29, 33, 34, 46, 47.)

Chicago.—The Chicago council consists of 70 members; two from each of the 35 wards. The council determines its own rules of proceedings; may punish a member for disorderly conduct and with the concurrence of two-thirds of the aldermen may expel a member, but not a second time for the same offence; but any alderman who has been

convicted of bribery is thereby considered to have vacated his office. A majority of the aldermen constitutes a quorum to do business, but a smaller number may adjourn time to time, and may compel the attendance of absentees under such penalties as may be prescribed by ordinance. The council may prescribe by ordinance, the times and places of its meetings and the manner in which special meetings may be called. The mayor is the presiding officer of the council but has no vote except in case of a tie. The council sits with open doors and keeps a journal of its proceedings. The yeas and nays must be taken upon the passage of all ordinances, and on all propositions to create any liability against the city, or for the expenditure or appropriation of its money, and in all other cases at the request of any member, which shall be entered on the journal of the proceedings.

The concurrence of a majority of all the members elected to the city council is necessary to the passage of any ordinance or proposition but it requires two-thirds of all the aldermen elected to sell any city or school property.

No vote of the council can be reconsidered or rescinded at a special meeting unless at such meeting there be present as large a number of aldermen as were present when the vote was originally taken.

Upon the request of any two aldermen present, any report of a committee must be deferred for final action to the next regular meeting.

The mayor or any three aldermen may call special meetings of the council.

Every ordinance must, before it takes effect, be presented to the mayor. If he approves, he signs it. If he disapproves, he states his objections in writing and returns the bill at the next regular meeting of the council occurring not less than 5 days after the passage thereof. If he does not return it within the time specified, with his objections, it takes effect as if approved. In case of disapproval the mayor's objections are entered upon the journal of the council and they reconsider the measure; if, after such reconsideration, two-thirds of all the members elected to the city council agree, by yeas and nays, to pass the same, the ordinance goes into effect, notwithstanding the mayor may refuse his approval (Act of 1872, Art. III.)

At the same time that an ordinance is returned to the council by the mayor without his approval he may submit an ordinance as a substitute for the one to which he objects. In such cases, after the vote by which the original ordinance was passed is reconsidered, if no motion is made to pass the original ordinance over the mayor's veto, or if such a motion is made and fails, the mayor's substitute may be considered at once unless two members of the council demand its reference to a committee. If such a demand is made the substitute ordinance must be referred unless two-thirds of the members of the council vote in favor of immediate consideration. If such an ordinance receives an affirmative vote of a majority of all

the members present and voting, it takes effect and goes into force in place of the vetoed ordinance.

When an ordinance is vetoed by the mayor and two-thirds of the members elected to the council fail to pass it over his veto, the same ordinance cannot be again considered unless introduced as an original ordinance at a subsequent meeting. (Ill. L. 1905, pp. 108, 169; Ill. R. S., Ch. 24, Secs. 293ao., 193ap.)

Cleveland.—The president of the council is elected by the people for a term of two years. He presides at all regular and special meetings of the council, but has no vote therein except in case of a tie. The members of the council must, within 10 days from the commencement of their term, elect a president pro tem., clerk, who shall also perform the duties of city clerk, and such other employees of the council as may be necessary, and must fix their duties, bonds and compensations. The officers and employees serve for two years, but may be removed at any time for cause, at a regular meeting, by a vote of two-thirds of the members elected to the council.

Whenever the office of councilman becomes vacant, it is filled by election by the council for the unexpired term, and in case the council fails to fill a vacancy within 30 days it is filled by the mayor by appointment.

The council determines its rules of procedure and keeps a journal of its proceedings; is judge of the election and qualifications of its members; can punish members for disorderly conduct, or violation of its rules, and declare their seats vacant for absence without valid excuse, where such absence has continued for two months, but no expulsion can take place without the concurrence of two-thirds of all the members elected, and until the delinquent member has been notified of the charges against him, and has had an opportunity to be heard; can compel the attendance of absent members in such manner and under such penalties as they shall prescribe by ordinance.

The vote on the passage of every ordinance or resolution must be taken by yeas and nays, and entered upon the journal. No ordinance or resolution, granting a franchise, or creating a right, or involving the expenditure of money, or the levying of any tax, or for the purchase, lease, sale, or transfer of property, can be passed unless it has been read on three different days; this rule can not be dispensed with except by a three-fourths vote of all the members elected to the council. A majority vote of all the members elected to the council is required to pass an ordinance.

No by-laws or ordinance may contain more than one subject, which must be clearly expressed in its title, and no by-laws or ordinance, or section thereof, may be revived or amended unless the new by-laws or ordinance contains the entire by-law or ordinance, or section revived or amended; and the by-law or ordinance, section or sections so amended must be repealed; and every such by-law, resolution and ordinance

must be adopted or passed by a separate vote of the council and the yeas and nays must be entered on the journal. Ordinances of a general nature, or providing for improvements must be published in two newspapers of opposite politics in general circulation. The statement of receipts and disbursements required must be published once, the ordinances and resolutions once a week for two consecutive weeks, proclamations of elections once a week for two consecutive weeks, notices of contracts and of sale of bonds once a week for four consecutive weeks; all other matters once.

Every ordinance or resolution must, before it goes into effect, be presented to the mayor for approval. If he approves, he signs it. If he disapproves, he returns it to the council within 10 days after its passage together with his objections. The council enters the objections upon its journal and if, upon reconsideration, two-thirds of all the members elected to the council approve the measure, it takes effect as if signed by the mayor. If the mayor does not return an ordinance or resolution within the time specified, it takes effect in the same manner as if he had signed it, unless the council by adjournment prevents its return (Ohio Law for Municipalities, 1902, Secs. 118, 119, 121, 122, 124, 125.)

Denver.—The council of Denver is composed of two branches, a board of supervisors and a board of aldermen. Each board holds regular meetings twice in each month but the regular meetings of the two boards can not be held in the same week.

Each elects one of its members as president to hold office for the term of one year. The president of each board presides at all of its meetings and has a vote upon all measures pending therein. He appoints all committees and exercises such other powers as are usually vested in a presiding officer.

Each board determines the rules of its own proceedings; is sole judge of the qualifications, election and returns of its own members; can punish its members for disorderly behavior and by a two-third vote of all the members elected expel them; sits with open doors; keeps a journal of its proceedings; and elects a president pro tem. to act in the absence of the president.

The council acts only by ordinance in matters of legislation, contract, appropriation, or expenditures of money and by ordinance or resolution in other matters. All ordinances or resolutions, except ordinances making appropriations, must be confined to one subject which must be clearly expressed in the title. Ordinances making appropriations must be confined to the subject of appropriations. No ordinance is passed except by bill and each bill when introduced is read at length and referred to a committee. Bills may originate in either board and may be amended or rejected by either board. They must be reported back to the board by the committees to which referred within 5 days, or at the next regular meeting of the board after the expiration of 5

days, unless a later day is designated when the bill is referred to the committee. A bill, in order to pass, requires a majority vote of all the members elected.

No ordinance takes effect until published in some newspaper in general circulation, or in book or pamphlet form, by authority of the council. No bill or resolution authorizing the expenditure of more than \$5,000, except in case of local improvements to be paid for by special assessments, can be passed, until after the expiration of one week from and after its introduction, nor until advertisement has been made by the clerk for at least 5 days in some newspaper, stating the general nature of the contract or expenditure as the case may be, and in case of the adoption of any amendment altering the contract or expenditure, such amendment must also be advertised before final action thereon.

No ordinance may be revived or amended or the provisions thereof extended or confirmed, by reference to the title only; so much thereof as is revived, amended, extended or confirmed must be re-enacted at length.

Every ordinance or resolution passed by the council must be presented to the mayor within 24 hours. If he approves, he signs it; if he disapproves, he returns it with his objections in writing to the board in which it originated within 5 days after receiving it. In case of disapproval, the mayor's objections are entered upon the journal of the board, which proceeds to reconsider and vote upon the vetoed measure. If then, two-thirds of the members agree to pass the same, it is sent, together with the objections, to the board, by which it is likewise reconsidered, and if approved by two-thirds of the members elected to that board, it becomes an ordinance or resolution, notwithstanding the objections of the mayor. If the mayor does not return the resolution or ordinance within the time specified, it takes effect as if he had approved it. If a bill is amended and passed by either board other than the one in which it originated, it must be returned with the amendments to the board in which it originated. No further amendments can be made to such bill after its return but the vote must be taken upon the bill as amended. All amendments adopted by either board are incorporated with the original bill by engrossment, and re-read in full before final passage and no bill becomes an ordinance unless signed by the president or by the president pro tem. of each board.

The mayor may call special meetings of either board of the council, and must call them upon written application of a majority of the members of either board (Charter, Secs. 9-15, 18, 19.)

Detroit.—The aldermen of the city constitute the Common Council, and a majority of all the aldermen elected constitute a quorum for the transaction of business; a smaller number may adjourn from day to day, and upon a call of the Common Council by any member thereof, if supported by a majority of the members present, whether

a quorum or not, the president can send any member of the police force to bring the absent aldermen before the board.

The council elects a president and president pro tempore. The clerk of the city is clerk of the council. The clerk calls the first meeting of the council to order and presides until the president is elected.

The council holds one regular session each week. Special meetings may be called at any time by the mayor, and must be called by the president of the council on the request of one-third of the aldermen elected.

The council determines the rules of its proceedings; is judge of the election and qualifications of its members with power to determine contested elections; can punish members for disorderly conduct and by two-third vote expel them; sits with open doors, and keeps a journal of its proceedings.

Every ordinance, resolution or proceeding imposing taxes or assessments or originating the expenditure or disposal of money or property or whereby the corporation or any board of officers may incur any debt or liability (except resolutions making appointments to or removal from office, and except ordinances and resolutions for the fixing of the annual estimates and salaries, and for payment of debts and liabilities previously and lawfully contracted), must, before it takes effect, be presented to the mayor. If he approves, he signs it. If he disapproves, he must return it, with his objections in writing, at the next regular meeting after the bill is presented to him. In case of disapproval the mayor's objections are received and the council proceeds to reconsider the measure. If, after such reconsideration, two-thirds of all the members elected agree to pass the same, it goes into effect. If the mayor neglects to approve any ordinance, resolution or proceeding, or return the same at the next regular meeting after it has been presented to him, the measure goes into effect in the like manner as if he had signed it.

At the close of each year the council causes the journal record of the proceedings of that year to be printed; and the printed copy of such council proceedings is admitted as sufficient evidence in all courts and in all proceedings within the state. Such part of the proceedings of the common council as the council directs may be published in the official daily newspaper, published in the city, or in such other form as the council directs. All ordinances are published for three successive days in the official newspaper, and take effect in 10 days after their enactment. However, the council may prescribe a different period, but no ordinance takes effect before one publication.

No resolution, ordinance or proceeding imposing taxes or assessments, or requiring the payment, expenditure, or disposal of money or property, or creating a debt or a liability therefor, and no other ordinance can be passed at the same meeting at which it is introduced unless by unanimous consent, or at a special meeting called for that

purpose, and every such ordinance, resolution or proceeding must be passed by ayes and nays to be entered on the record.

No alderman may vote on any question in which he is interested; on all other questions every alderman present votes, and in all cases of tie-vote the question is lost.

The president of the board of aldermen appoints such committees as the board deems necessary. The duties of standing committees are prescribed by general ordinance. The chairman of any committee may administer oaths and take affidavits in regard to any matter pending before it. Committees may subpoena witnesses, compel their attendance and the production of necessary papers in all examinations pending before them, and to that end the council may prescribe and regulate the necessary proceedings, and confer upon the police force all needful powers for enforcing them (Charter, Secs. 145-164).

New Orleans.—The council elects from its members a president who is ex-officio chairman of the finance committee. He has a casting vote in case of a tie.

The council meets on the first Tuesday evening of every month, and as much oftener as it considers necessary. It is the sole judge of the election, returns and qualifications of its members, and may expel any of them by a two-third vote of all the members elected, but every member has the opportunity of being heard in his own defence.

The council or any committee thereof may summon witnesses and compel their attendance and administer oath, compel them to testify and to produce books and papers, and may punish them by imprisonment or fine for failure to attend or refusal to testify or produce books and papers, but no such imprisonment shall exceed 10 days for each offence.

No ordinance or resolution can pass the council at the same session at which it is first offered, but every ordinance or resolution must at its first offering be read in full and must then lie over for at least one week before being finally considered. The council sits with open doors, and no resolution or ordinance, except resolutions for investigation and for the conduct of parliamentary business, has the force of law, unless it receives the votes of a majority of the members elected, and unless on its final passage the yeas and nays are called and recorded.

All ordinances and resolutions, after being passed by the council, are transmitted to the mayor for his consideration. If he approves, he signs and publishes them; but if he disapproves, he must within 5 days from the time he receives an ordinance, return it to the council with his objections in writing. If two-thirds of the members again vote for the ordinance, it has the force of law. Failure to return an ordinance within 5 days, if the council be in session, or to the next session of the council, after 5 days, has the same effect as a veto.

The mayor publishes all ordinances and resolutions passed by the council and the council publishes its proceedings in a daily newspaper (Charter, Art. IV., Secs. 11, 12, 13, 16, 17, 28.)

New York.—The president of the board of aldermen is elected by the voters of the entire city. Each head of an administrative department of the city is entitled to a seat in the board of aldermen and must, when requested by it, attend its meetings. He must answer all questions put to him by any member relating to the affairs of his department of which he has had 48 hours written notice. He has the right to participate in the discussions of the board, but has no vote.

The board of aldermen determines the rules of its own proceedings; is judge of the election returns and qualifications of its own members, subject to review by the courts; can punish members for disorderly conduct and by a two-third vote expel them, the expulsion being subject to review by the courts; can compel the attendance of absent members; sits with open doors; keeps a journal of its proceedings; and appoints a sergeant-at-arms and a city clerk, who is also clerk of the board.

Vacancies in the office of aldermen are filled by a majority vote of all the aldermen elected and the person chosen must be one of the same political party as his predecessor.

The first meeting of the board of aldermen in each year is held on the first Monday of January, and at least one stated meeting is held every month thereafter, except, in the discretion of the board, the months of August and September. The mayor may at any time call a special meeting of the board and must call one whenever a requisition for that purpose, signed by 15 members, has been presented to him.

Every legislative act is by resolution or ordinance, which requires a majority vote of all the members of the board for its passage, except in the following cases: (1) No money can be expended for any celebration, procession, funeral ceremony, reception or entertainment of any kind or on any occasion except by a vote of four-fifths of all the members of the board of aldermen. (2) No additional allowance beyond the legal claim which exists under a contract with the city, or with any department or officer thereof, or for any services on its account or in its employment, can be passed, except by unanimous vote, and the contract provisions must determine the amount of allowance. (3) Public bidding for contracts over \$1,000 can not be waived except by a three-fourths vote.

Every ordinance or resolution must, before it takes effect, be presented to the mayor for his approval, and he is required to return it to the board within 10 days after receiving it, or at the next meeting of the board of aldermen, within 10 days after receiving it. If he approves, he signs it. If he disapproves, he states his objections in writing. If he does not return it with his objections within the time specified, it takes effect as if he had approved it. In case of disapproval

the mayor's objections are entered upon the journal of the board, which proceeds to reconsider and vote upon the vetoed measure. If it involves the expenditure of money, the creation of a debt, or the laying of an assessment, it may be passed over the veto by a three-fourths vote of all the members of the board; other resolutions and ordinances require a two-thirds vote for passage over a veto. But if an ordinance or resolution fails to receive, upon the first vote upon such reconsideration, such number of affirmative votes, it is considered lost. (Charter, Secs. 18, 22, 27, 37, 39, 40, 419.)

Philadelphia.—Each branch meets on the first and third Thursdays of each month. They organize in separate chambers. Each elects a president and such officers as are deemed necessary for the transaction of business and keeps a journal of its proceedings which is at all times open to public inspection.

The president of either branch may call special meetings of the council over which he presides, whenever, in his opinion, public business requires it. The president of the Select Council must call such meetings on the written request of 6 members and the president of the Common Council on the written request of 12 members. At special meetings, no other business than that for which it was called may be taken up, unless by a two-third vote of all the members present. In joint meetings or conventions of councils, no business can be transacted excepting such as has been previously agreed upon by concurrent resolution. At such joint meetings, the president of the Select Council presides.

No ordinance can be passed through the councils except by bill, and no bill can be so altered or amended on its passage through either branch as to change its original purpose. No bill is considered unless it has been referred to a committee, returned therefrom and printed for the use of members; and no bill can be passed containing more than one subject, which must be clearly expressed in its title.

No amendments to a bill by one branch may be concurred in by the other except by the vote of a majority of two-thirds of the members elected thereto as the case may require.

Every bill must be presented to the mayor. If he approves, he signs it; if not, he returns it to the house, where the bill originated, within 10 days or at the next meeting of the councils after the 10 days have expired. If each branch of the council again passes the measure, within 5 days of the veto, by a vote of three-fifths of all the members elected to each house, it becomes effective; it also becomes effective if the mayor neglects to return it within 10 days (Phil. Digest, Chap. XLIV, Sec. 24; Acts of 2 Feb. 1854, and 23 May, 1874.)

(Note.—A portion of the procedure given for Philadelphia is established by ordinance only.—Ed.)

San Francisco.—The mayor is the presiding officer of the Board of Supervisors. In his absence, the board appoints a presiding officer pro tempore, from its own members, who has the same right to vote as other members.

The board meets on Monday of each week and its meetings are public. Every person who has served as mayor of the city and county, so long as he remains a resident thereof, is entitled to a seat in the Board of Supervisors, and to participate in its debates but is not entitled to vote or to receive compensation.

The board appoints a clerk, sergeant-at-arms and when authorized to do so by ordinance, such additional clerks and other assistants as it considers necessary; determines the rules of its proceedings; can punish its members for disorderly or contemptuous behavior in its presence; can compel the attendance of absent members; and keeps a journal of its proceedings.

Every legislative act is by ordinance. No ordinance can be passed except by bill, and no bill may be so amended as to change its original purpose. Every ordinance and resolution requires a majority vote of all the members of the board for its passage. An ordinance must embrace but one subject which subject must be expressed in its title; no ordinance may be revised, re-enacted or amended by reference to its title only but must be re-enacted at length as revised or amended.

When a bill is put upon its final passage in the board and fails to pass, and a motion is made to reconsider, the vote upon such motion cannot be acted upon before the expiration of 24 hours after an adjournment. No bill for the grant of any franchise is put upon its final passage until 90 days after its introduction, and no franchise is renewed before one year prior to its expiration.

Every bill or resolution providing for any specific improvement, or the granting of any franchise or privilege, or involving the lease, appropriation or disposition of public property, or the expenditure of public money above the sum of \$200, or levying any tax or assessment, and every ordinance providing for the imposition of a new duty or penalty must be published in the official newspaper for at least 5 successive days before final action thereon. If such bill be amended the bill as amended must also be advertised for 5 days before final action.

Every resolution and ordinance must be presented to the mayor for his approval and he is required to return it to the board within 10 days after receiving it. If he approves, he signs it, and it then becomes an ordinance. If he disapproves, he states his objections in writing. If he does not return it with his objections within the time specified, it takes effect as if approved. In case of disapproval the mayor's objections are entered upon the journal of the board, which proceeds to reconsider and vote upon the vetoed measure after 5 and within 30 days after the bill has been returned. If, after such reconsideration, 14 members of the board (7/9) vote in the affirmative, the

bill becomes an ordinance without the mayor's approval (Charter, Art. II., Ch. 1, Secs. 3-18.)

St. Louis.—The legislative power of the city of St. Louis is vested in two houses, a Council and a House of Delegates. The presiding officer of the council is elected by the qualified voters by general ticket every 4 years. The presiding officer of the House of Delegates is elected by the members.

Each house determines the rules of its own proceedings; is sole judge of the qualifications, elections and returns of its own members; can punish its members for disorderly conduct and by a two-third vote expel them; can compel the attendance of absent members; elects its own officers; sits with open doors and keeps a journal of its proceedings.

Bills may originate in either house, and may be amended or rejected by the other; and every bill must be read on three different days in each house. No bill is considered for final passage unless it has been reported upon by a committee and no bill can contain more than one subject, which must be clearly expressed in its title. No ordinance can be revived or re-enacted by mere reference to the title but must be set forth at length, as if it were an original ordinance; no ordinance can be amended by providing that designated words be stricken out, or that designated words be inserted but the ordinance or section amended must be set forth in full as amended.

The vote upon a motion to reconsider a defeated measure must be taken immediately, and before the house proceeds to any other business.

No bill becomes an ordinance until it has been signed by the presiding officer of each of the two houses in open session; and before the presiding officer affixes his signature to any bill, he suspends all other business; the bill is then read at length, and if no objections are made, he signs the bill in the presence of the house in open session, and sends it to the other house, where the same proceedings are observed. If in either house, any member objects upon the ground that some substitution omission or insertion has occurred, such objection is passed upon by the house, and if sustained, the presiding officer withholds his signature.

Every bill, after its passage in both houses, is presented to the mayor, for his approval or disapproval, and he must return it, within 10 days after he receives it to the house in which it originated, with his approval or his objections. If he approves the measure, it becomes a law. In case of disapproval, the house enters the mayor's objections on its journal and reconsiders the question. If two-thirds of all the members elected to the house vote in the affirmative the bill is sent, together with the mayor's objections, to the other house and if the bill receives a like majority in that house it becomes an ordinance. If the mayor does not return the bill within the time specified, it becomes a

law as if approved by him, unless the assembly by its adjournment prevents its return. In that case, the mayor may return the bill to the register within 10 days after the adjournment of the assembly. No ordinance passed by the assembly, except the general appropriation ordinance, goes into force until 10 days after its approval, unless in case of an emergency the assembly by a two-thirds vote of all the members elected to each house, directs otherwise (Charter, III, Secs. 8-25.)

(2) Great Britain and Canada.

England.—The councils in the cities of England are required to hold at least 4 meetings in every year. One meeting must be held on the 9th of November, but the other three meetings may be held whenever the council determines. The mayor or any 5 members may at any time call a special meeting of the council, but no business may be transacted at a special meeting other than that specified in the summons.

The mayor is the chairman of the council, and in case of equality of votes, has a second or casting vote. He has no veto power.

Two-thirds of the number of the whole council is necessary to form a quorum and all acts must be approved by a majority of such members of the council as are present and vote. Minutes of the proceedings of every meeting are drawn up and entered in a book kept for that purpose. Subject to the foregoing provisions, the council may from time to time make standing orders for the regulation of their proceedings and business, and vary or revoke such regulations (45 & 46 Vict. C. 50, 2d. Schedule.)

The council is empowered by statute to appoint out of their own body general or special standing committees "for any purpose which, in the opinion of the council, would be better regulated and managed by means of such committees; but the acts of every such committee shall be submitted to the council for their approval."

A member of the council is not allowed to vote or take part in the discussion of any matter before the council, or a committee, in which he has any pecuniary interest.

No by-law passed by the council goes into effect until 40 days after a copy thereof has been sent to the secretary of state; and if within those 40 days the king, with the advice of his privy council, vetoes the law or part thereof, the law or part thereof does not go into force (45 & 46 Vict. C. 50, Secs. 22, 23.)

Scotland.—In Scotland the law provides that the provost or acting chief magistrate shall preside at meetings of the council but he has no vote except in case of a tie.

Meetings of the council are held at such times and at such places as they determine from time to time. Special meetings are called by the clerk on a petition signed by not less than one-fifth of the members, or at the request of the provost.

One-third of the town council constitutes a quorum.

The council has power to form committees of their number either with directions to report to the council, or for carrying out matters remitted to them. The council may delegate to such committees the powers (except the powers to raise money by rate or loan) which the council itself possesses with regard to the subjects remitted; the council may name the convener and sub-convener of the committees, fix the numbers of such committees which shall form a quorum and, if they see fit, may allow any committee to appoint sub-committees.

"The council may from time to time, enact such standing orders as they may consider necessary or expedient for the regulation of their business, and repeal, alter, and amend the same. The council may by standing order provide for the closure of debate, and for the suspension by resolution of the council for the remainder of the sitting of any councillor disregarding the authority of the chairman, or being guilty of obstructive or offensive conduct at any meetings" (Scots Statutes, 63 & 64 Vict. C. 49, Secs. 68-77.)

Canada (Ontario.)—In the cities of Ontario the mayor is the head of the council. He presides at all the meetings of the council and votes on all questions except in cases where he is disqualified to vote by reason of interest or otherwise. He may at any time summon a special meeting of the council, and must do so whenever requested in writing by a majority of the members of the council. In case of the absence or death of the mayor, a special meeting may be summoned at any time by the clerk upon a special requisition to him, signed by a majority of the members of the council.

A majority of the whole number of members required by law to constitute the council is necessary to form a quorum. The council holds its ordinary meetings openly but a special meeting may be either open or closed as in the opinion of the council the public interest requires.

The council may make regulations not contrary to law for governing its proceedings, the conduct of its members, and the appointing or calling of special meetings.

Every by-law must be under the seal of the corporation and must be signed by the presiding officer and the city clerk; every original by-law so sealed and signed is received in evidence in any court of justice without proof of the seal or signatures, unless it is especially pleaded that the seal or one or both of the signatures has or have been forged. (Consolidated Municipal Act for Ontario, Secs. 267-275, 333.)

(3) Continental Europe.

France.—The French municipal councils meet in ordinary session 4 times a year: in February, May, August, and November. Three of these ordinary sessions may last for 15 days each, while the fourth, in which the annual budget is discussed and the general official policy of

the municipality is debated for the following year, is permitted to remain in session for 6 weeks. In the meantime, there may be as many so-called extraordinary sessions as the mayor wishes to call. Moreover, a majority of the council may at any time request a meeting which the mayor is obliged to call. The municipal council may deliberate only when a majority of its members are present at the meeting. But if, after two successive calls duly issued with an interval of at least three days, the council does not assemble in sufficient numbers, the proceedings of the third meeting are valid whatever the number of members present.

Questions are decided by a majority of those voting. In case of a tie, except in the case of a secret ballot, the vote of the president is decisive. The vote is taken publicly on demand of one-fourth of the members present; the names of the voters, with their votes, are entered upon the record. The voting is by secret ballot whenever one-third of the members present requests it.

The mayor presides over the council except at the sessions in which his official statements are debated. In that case, he may take part in the discussion, even though he is no longer in office, but he must retire at the time of the vote.

The council itself appoints a number of standing committees for the consideration of important subjects, or the general oversight of particular departments. These committees hold their meetings in the interval between the sessions. The sessions of the councils are public. Nevertheless, on demand of three members or of the mayor, the municipal council, by a rising vote without debate, may decide whether it will resolve itself into a secret committee (French Municipal Code, Chap. II.)

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(Note.—The following sections from the model municipal corporations act of the Municipal Program, adopted by the National Municipal League, contains the recommendations of that organization on the points covered in Part Three, I-III, *supra*.

Art. V, Sec. 2. *Composition of the council*.—The council shall consist of—members who shall serve without pay, one-third of whom shall be elected at each municipal election. The members of the council shall be elected on a general ticket from the city at large, and shall serve from ——— after their election. The members of the first council elected under the provisions of this act shall be divided by lot into three classes, as nearly equal in number as may be, to hold office respectively for two, four, and six years, and thereafter at each municipal election there shall be elected members of the council to take the place of outgoing members for a term of six years, and to fill for the unexpired term any vacancies that may have occurred in the respective classes. Outgoing members of the council shall be eligible for re-election.

Sec. 3. *The council to be judge of election and qualifications of its own members.*—The council shall be the judge of the election and qualifications of its own members, subject to review by the courts.

Sec. 4. *Ineligibility of councillors.*—No member of the council shall hold any other public office or hold any office or employment the compensation for which is paid out of public moneys; or be elected or appointed to any office created or the compensation of which is increased by the council while he was a member thereof, until one year after the expiration of the term for which he was elected; or be interested directly or indirectly in any contract with the city; or be in the employ of any person having any contract with the city, or of any grantee of a franchise granted by the city.

Sec. 5. *The council shall elect its own officers and determine its own rules.*—The council shall elect its own officers; determine its own rules of procedure; may punish its members for disorderly conduct, and compel the attendance of members, and, with the concurrence of—— of the members elected, expel a member. Any member who shall have been convicted of bribery shall thereby forfeit his office.

Sec. 6. *Quorum of the council.*—A majority of the members of the council elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time, and may compel the attendance of absentees under such penalties as may be prescribed by ordinance.

Sec. 7. *Council meetings.*—The council may prescribe by ordinance the time and place of its meetings and the manner in which special meetings thereof may be called. But the mayor may call a special meeting of the council at any time by previous written notice mailed to the postoffice address of each member of the council at least twenty-four hours before such special meeting. The council shall elect one of its own number as president, shall sit with open doors, shall keep a journal of its own proceedings, which shall be public and printed. All sessions of committees of the council shall be public. The council shall act only by ordinance or resolution, and all ordinances or resolutions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations. The ayes and nays shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of its proceedings; and every ordinance or resolution shall require on final passage the affirmative votes of a majority of all the members.

No ordinance or resolution shall be passed finally on the day it is introduced, except in case of public emergency, and then only when requested by the mayor and approved by the affirmative votes of three-fourths of all the members of the council.

Except in case of such public emergency, each ordinance when introduced shall be referred to a committee and printed for the use of

members, and shall not be subsequently so altered or amended as to change its original purpose. It shall be reported to the council at the next regular meeting thereof, unless another date be designated by the council when the reference is made, or at a subsequent meeting thereof.

Before any grant of a franchise shall be made, the proposed specific grant embodied in the form of an ordinance, with all the terms and conditions, including the provisions as to rates, fares, and charges, shall be published at the expense of the applicant for the franchise at least twice in each of two newspapers designated by the mayor, having a general circulation in the city. Such publication shall take place at least _____ days before the final vote upon such ordinance, and such ordinance shall require the affirmative vote of at least _____ of all the members of the council.—Municipal Program, pp. 216-218.

IV. POWERS OF CITY COUNCILS.

1. LEGISLATIVE POWERS OF THE COUNCIL.

Baltimore.

(1) General powers.

The powers of the city enumerated in the charter are not to be held to limit the powers of the mayor and council, in addition thereto, to pass such ordinances not inconsistent with the charter or laws of the State as may be proper in executing any of the powers, express or implied, enumerated in the charter (Charter, Sec. 6, p. 31).

(2) Power over the structure of the city government.

In this respect the power of the Baltimore council is quite limited. Almost every possible office is provided for by the charter in great detail, but a general power is given to provide by ordinance for special commissioners and boards and for assistants and clerks in the departments (Charter, Sec. 31).

(3) Police power.

(a) General police power.

The council has power to pass ordinances for preserving property and securing persons and property from violence, danger and destruction, and for promoting the great interests and good government of the city. It is also authorized to exercise within the city limits "all the powers commonly known as the police power" to the same extent that it can be exercised by the state (Charter, Sec. 6, p. 15). Finally it is provided that the enumeration of powers of the council shall not be held to limit its power to pass any ordinance, not inconsistent with its charter, that may be deemed expedient in maintaining the peace, good government, health and welfare of the city (Charter, Sec. 6, p. 31).

(b) *Police force and public order.*

The organization of the police department is provided for in detail by the charter. The council may pass all necessary ordinances for preserving the public order (Charter, Sec. 6, p. 15).

(c) *Public safety.*

Fire.—The council has power to establish and regulate fire wards and fire companies and all matters pertaining to the prevention and extinguishing of fires; to prevent the erection of wooden buildings in parts of the city which it may designate; to regulate "the evil and pernicious practice of discharging fire crackers," either by prohibiting their sale or otherwise; to erect and provide magazines for the storage of gun powder and to compel its storage therein and to regulate the price of storage; to regulate the storage of naval stores and other combustible matter in such quantities and in such places as the council may deem dangerous; to provide for the inspection of oils and fluids made from petroleum to be used for illuminating purposes and for the appointment of inspectors for that purpose; to fix by ordinance the standard or flashing point of oils or fluids made from petroleum or its products, used for illuminating purposes and to provide for the inspection of the same (Charter, Sec. 6, pp. 6, 7).

The council may appropriate money annually for the relief of disabled and superannuated firemen and for the relief of widows and children of firemen who have been killed while in discharge of their duty. It may also provide by general ordinance for giving pensions to members of the fire department who may become unable to perform further service by reason of age or other disability. Pensions may not be over one-half the yearly amount being received upon retirement (Charter, Sec. 6, p. 6).

Building regulation.—The council may regulate and establish the size of bricks to be used in buildings; provide for entry and examination of dwellings, lots, yards, enclosures, buildings, cars, boats and vehicles as to their safety; provide for the taking down and removal of buildings, walls, structures and superstructures that are or may become dangerous or require their owners to remove them or put them in safe condition; regulate the building of party walls, fire-walls, parapets, smoke-flues, fire-places, hot-air flues, boilers, kettles, smoke-stacks and stove-pipes; provide for and regulate the safe construction, inspection and repairs of all private and public buildings; regulate the height, construction and inspection of all new buildings and the alteration and repairs of buildings previously erected; regulate the limits within which it shall be lawful to erect steps, porticos, bay-windows or other structural ornaments to houses fronting on any street; license and regulate the sweeping of chimneys and regulate the sweeping of any chimneys by neglect of which the city may be endangered (Charter, Sec. 6, p. 4).

Miscellaneous.—The council may require street passenger railways to provide proper fenders for their cars for the protection of human life and to lessen the danger arising from collision with such cars (Charter, Sec. 6, p. 16).

(d) *Convenience.*

The council may provide for regulating the use of streets, highways, roads, public places and sidewalks by foot passengers, animals, vehicles, etc. (Charter, Sec. 6, p. 23); for regulating the numbering of houses, lots, streets and avenues, and the naming of streets, avenues and public places; for preventing encroachments on the streets and the obstruction thereof.

(e) *Health.*

The council is given power to enact measures to preserve the health of the city and to prevent and remove nuisances. The introduction of contagious and infectious diseases into the city or within 3 miles thereof on land or within 15 miles on water, may be prevented (Charter, Sec. 6, p. 8).

The council may regulate the place of manufacturing soap and candles; the erection of slaughter-houses and distilleries and the places where any other offensive trade is carried on. It may also regulate the construction, care, use and management of tenement and lodging houses and cellars (Charter, Sec. 507). It may compel the consumption of smoke and make any necessary regulations to prevent the same from becoming deleterious or offensive to health. The entry and examination of dwellings, lots, yards, enclosures, buildings, cars, boats and vehicles may be provided for in order to ascertain their condition as to health and cleanliness (Charter, Sec. 6, p. 4). And house drainage and sewage connections may be inspected and the kind and quality of material used prescribed (Ib., p. 17).

The council is given power to prevent the water supply from being contaminated (Charter, Sec. 6, p. 30).

The inspection of milk and other food products offered for sale or intended for consumption in the city may be provided for, and regulations necessary to protect the public health regarding the sale of milk and other food products may be established. The council may provide for the inspection of bakeries and confectioneries and any place for the manufacture of bread, cake and confectionery and similar food products, for the purpose of ascertaining their sanitary condition and cleanliness and also to ascertain the purity, healthfulness and wholesomeness of the ingredients used in making such food products. A fine of not less than \$20 nor more than \$100 for each offense may be established for the violation of such ordinances (Charter, Sec. 6, p. 9).

The council may also regulate the sale and disposition of fish within the city and license and regulate the sale of fresh fruits, meats, vegetables and all other perishable articles (Ib., p. 7).

(f) *Fraud and extortion.*

The council has power to make the standard of weights and measures the same for Baltimore as for the rest of the state and may enforce its regulations by inspection; it may fix the size of loaves of bread sold in the city and license, regulate, tax or suppress hawkers, peddlers, brokers, pawnbrokers and fortune tellers (Charter, Sec. 6, p. 13).

(g) *Public morals.*

The charter provides in detail for almost everything relative to public morals, including those matters generally left to the city council. The power to license, regulate and restrain theatrical and other public amusements and street exhibitions is practically the only matter of this nature left to the council.

(4) Financial powers.

(a) *Debt.*

No debt can be created by the mayor and council unless it has first been authorized by an act of the general assembly of Maryland and by an ordinance of the mayor and council of Baltimore submitted to and approved by a majority of the legal voters of the city. But the mayor and council may temporarily borrow money to meet any deficiency in the treasury or to meet an emergency arising from the necessity of maintaining the police or preserving the safety or sanitary condition of the city (Maryland Const. XI, 7).

The council may provide for levying upon and collecting from any property within the city, by tax, any sum necessary to pay and discharge the principal and interest of any loan obtained according to law, but it must create a sinking fund to meet the liability thus incurred.

In order to defray the cost of land and water rights for the purpose of securing a water supply for the city, and for constructing waterworks as set forth in the charter the city may issue certificates of debt known as Baltimore Water Stock to an amount not exceeding \$5,000,000 and bearing interest not exceeding 6 per cent and provide by ordinance for the redemption of the same (Charter, Sec. 6, p. 29).

Bonds may also be issued to an amount not exceeding \$1,000,000 and with interest at not over 5 per cent to provide for completing Lake Clifton for a water supply, but such bonds may not be issued unless authorized by a majority of the legal voters (Charter, Sec. 6, p. 30).

Bonds not to exceed \$2,000,000 may be issued to defray the cost of making improvements along Jones Falls, such bonds to bear interest of not over 6 per cent and to be issued only upon a majority vote of the legal electors of the city (Charter, Sec. 6, p. 12).

Bonds to the amount of \$5,000,000 may be issued to be used for the opening, widening, repairing and paving of the streets, the construction of sewers, the construction of school buildings and the im-

provement of public parks. These bonds may bear such interest as is provided by ordinance, but may not be issued unless approved by the voters (Charter, Sec. 824).

The council may endorse the bonds of the Baltimore and East Shore Railway Company to the extent of \$10,000 per mile providing such action is approved by a majority of the legal voters. The entire amount of such endorsement may not exceed \$500,000 and must be secured by a first mortgage on the property and franchise of the road (Charter, Sec. 826).

(b) *Appropriations.*

An appropriation bill is prepared annually between October 1st and November 1st by the Board of Estimates, consisting of the mayor, city solicitor, comptroller, president of the Second Branch of the city council and president of the board of public improvements. The estimates for the annual appropriation are prepared in three lists embracing all the moneys to be expended for all purposes for the next ensuing fiscal year. After the three lists have been prepared the Board of Estimates prepares a draft of an ordinance providing appropriations sufficient to meet the amounts called for. A draft of the ordinance is published in two daily newspapers for two successive days and a copy of the draft is sent to the president of each branch of the city council. A special meeting of the council must be called at once by the mayor to consider such ordinance. The two branches of the council by a majority vote of all the members may reduce the amounts so fixed by the board except items fixed by law and items inserted by the board to pay state taxes and to pay the interest and principal of the city debt. The city council has no power to increase the amount fixed by the board or to insert any new items. When the proposed ordinance is passed and approved by the mayor the several sums provided for become the appropriations for the next fiscal year, and the council may not by any subsequent ordinance appropriate any money to be used for the next fiscal year for any of the purposes embraced in the ordinance (Charter, Sec. 36).

No appropriation provided for in the ordinance as above indicated can be diverted or used for any other purpose than that indicated in the ordinance, and the comptroller cannot draw warrants for any of the items in the ordinance of estimates unless he has received the amounts and they are actually to the credit of the city council and the various departments, boards, etc.

Temporary loans to meet the amount provided for in the ordinance of estimates cannot be authorized or made in order to pay any deficiency arising from a failure to realize sufficient funds from revenue and taxation. In case of such a deficiency there must be a *pro rata* reduction of all appropriations except those for the payment of state taxes and the principal and interest of the city debt X

and such other amounts as are fixed by law and contained in the ordinance. (Ib.)

Any surplus arising in any year by reason of the excess of income over expenditures becomes a part of the annual revenue of the city and is available for expenditure for the next fiscal year. (Laws of Md., 1904, Ch. 677, p. 1196.)

(c) *Taxation.*

The council may license, tax and regulate all businesses, trades, avocations or professions. It may levy annually upon the assessable property of the city by direct tax such sums as may be necessary to defray the expenses of the city, exclusive of expenses, charges and sums which the city may be required by law to collect for other purposes, subject to the provisions and limitations of the charter; it may levy and collect taxes upon all property found within the city, upon which taxes may lawfully be laid whether the owners of the property reside within the city or not, for the purpose of defraying the expenses of the municipal government; stocks and bonds, mortgages, certificates or other evidences of indebtedness of any bank or corporation situated in the city, but owned by persons living outside the city, may not be taxed (Charter, Sec. 6, p. 25); it may levy upon and collect from any property within the city, by tax, any sum necessary to pay and discharge the principal and interest of any loan obtained according to law and it may levy a tax sufficient to pay the principal and interest of any liability incurred by the city (Charter, Sec. 6, pp. 18, 19).

The council has power to levy and collect a tax of not exceeding 30 cents per one thousand feet on all lumber floating into or arriving at the port of Baltimore, except lumber to be sawed in Baltimore and timber for masts, spars and wharves. The proceeds of this tax must be applied to carrying into effect rules for the harbor and port. The council may also collect a tax or wharfage on goods passing over any public wharf and it may collect a tax from vessels taking in or discharging goods at such wharves (Charter, Sec. 6, p. 8).

Provision may be made by ordinance for the encouraging and growth of manufacturing industries by exempting from taxation for corporate purposes, mechanical tools and implements, machinery, manufacturing apparatus or engines, owned by any individual, firm or corporation when such tools, etc., are actually employed in manufacturing in the city. However, such exemptions must extend to all persons, firms or corporations engaged in the branch of manufacture to be benefited by such an ordinance (Charter, Sec. 6, pp. 25, 26).

(d) *Miscellaneous.*

Proposals for contracts with the city involving the expenditure of \$500 or over must be advertised for in two or more daily papers and let to the lowest responsible bidder (Charter, Secs. 14, 15).

(5) Streets and public ways.

The council has power to provide for laying out, opening, widening, straightening and closing streets, squares, lanes and alleys which in its opinion the public welfare may require; to provide for ascertaining the damage or benefits which may result to owners thereby and to pay for the damages or to assess the property for the benefits; to provide by ordinance for establishing the grade line of any street, lane or alley; to provide for constructing and keeping streets, lanes and alleys in repair and for assessing the cost of such work in whole or in part against property along such streets, lanes and alleys; to pass all laws necessary for grading, paving, regulating and repairing the footways in lanes, streets and alleys and to impose a tax on lots fronting on such footways to pay for the improvement or to compel the owners of such lots by fine or otherwise to improve the footways; to regulate the use of sidewalks for the use of sign-posts, signs, awnings, horse troughs, trolley poles, electric light poles, telegraph wires and electric light wires and to prohibit the erection of posts, poles and wires in and over any street, lane or alley or to compel their removal therefrom; to clean the streets and to remove dirt and filth therefrom; to prohibit and punish by ordinance the placing of dirt, filth or other matter in the streets and to protect the pavement by prohibiting travel thereon; to erect lamps in streets, lanes and alleys and cause the same to be lighted at city expense; to regulate the use of streets, etc., by railway or other tracks, gas or other pipes, telegraph, telephone, electric light or other wires or poles in, under or over the same and to provide that all such wires be placed underground after reasonable notice; to provide a series of conduits under streets for the use of telegraph, telephone and electric light wires either by constructing the conduits itself or authorizing their construction by some person or corporation; to require that wires or poles be removed from the surface of the streets and that the wires be placed in said conduits and to prescribe reasonable rates therefor; to regulate the breadth of the wheels of wagons used for hauling burdens on the streets, but such regulations cannot apply to persons hauling produce to the city; to erect and regulate pumps, fountains and springs in the streets.

The council may pass ordinances permitting the construction of steam railway tracks along any street upon application or assent in writing of the owners of the major part in extent of front feet of the lots fronting on each side of such street and the council may revoke the privilege granted any such railroad to use the streets whenever public interests may so require, upon the payment to such railroad of the actual cost of construction of its tracks (Charter, Sec. 6, p. 16).

The council may provide for the purchase, with the county commissioners of any neighboring county, of all bridges and turn-pike roads leading toward the city and when so purchased such roads and

bridges shall become free public highways under the management of the city and county commissioners upon such terms as may be stipulated between them (Charter, Sec. 6, pp. 20-24).

Before any ordinance is passed to open, lay out, extend, widen, straighten or close up any street, lane or alley, notice must be given of the application therefor by advertisement in three daily newspapers (Charter, Sec. 828).

(6) Public utilities and public services.

(a) *Franchises in general.*

The title of the city to its water front, wharf property, land under water, public landings, wharves, lots, highways, avenues, streets, lanes, alleys and parks is declared inalienable (Charter, Sec. 7).

The mayor and council may grant franchises and rights for a limited time to any of the public property mentioned above. Such grants must specifically set forth the nature, extent and duration of the franchise or right granted. Franchises cannot pass by implication. The mayor and council must retain the right to reasonably regulate in the public interests the exercise of any franchise or right granted (Charter, Sec. 8).

Franchises or rights in relation to any highway, avenue, street, etc., whether on, above or below the surface cannot be granted for a longer time than 25 years. But a grant may provide for a renewal not exceeding 25 years upon a fair revaluation in which is included the value derived from the franchise or right. A grant may provide that upon the termination of the franchise the plant and property situated in and above the highways of the city shall become the property of the city without further or other compensation to the grantees, or it may provide upon the termination of the franchise for the purchase by the city of the plant and property upon a fair valuation. If by the franchise the plant and property become the property of the city without the payment of money the city may at its option either take and operate the property on its own account, or renew the grant for a term not to exceed 25 years with a revaluation, or the city may sell the grant to the highest bidder at public sale. If the original grant prescribes that the city may at its option pay for the grant and property, the payment must be at a fair valuation of the same as property excluding any value derived from the franchise or grant. If the city makes payment for the property it may operate the plant upon its own account for 5 years after which it may determine either to continue the operation or to lease the plant and the right to use the streets for limited periods under such rules as it may prescribe or it may determine to sell the plant and property to the highest bidder at a public sale (Charter, Sec. 9).

Every franchise grant must make provision by way of forfeiture of the grant, or otherwise, for compelling compliance with the terms of the grant, for securing efficiency of public service at reasonable rates

and for the maintenance of the property in good condition throughout the full term of the franchise. The grant must also specify the mode of determining the valuations and revaluations which may be provided therein (Charter, Sec. 9).

Before any franchise for the use of the streets or any public property is granted it must be embodied in the form of an advertisement at the expense of the applicant and published in a daily paper for at least three days (Charter, Sec. 10).

When a franchise is granted the mayor and council must expressly reserve the right and duty of full municipal superintendence, regulation and control in respect to all matters connected with the grant and not inconsistent with the terms thereof (Charter, Sec. 11).

(b) *Transportation.*

See section above (7, a) "Franchises in general."

(c) *Gas and electric light.*

See (6) "Streets and public ways" and (7, a) "Franchises in general."

(d) *Telephones and telegraphs.*

The council has power to control the erection and use of telephones, poles and wires in and over the streets; to compel their removal or the placing of the wires in the conduits provided by the city, and to charge a rental for the use of such conduits (Charter, Sec. 6, p. 23).

(e) *Water.*

The council has power to establish, maintain, own and control a system of water supply for the city and to pass all ordinances necessary to accomplish the same. To this end it may purchase, lease, hold in fee-simple or for a term of years land, real estate, springs, brooks and water courses and occupy the same in order to convey water into the city; it may enter, or pass through as the occasion may require, and use and occupy lands through which it may deem it necessary to convey water; it is invested with all rights and powers necessary for the induction of water into the city and with power to enact all ordinances necessary to exercise these powers (Charter, Sec. 6, pp. 26, 27). Property may be condemned for securing the water supply, and debt not to exceed \$5,000,000 may be incurred for that purpose. The council has power to fix rates for supplying water and the city may upon sanction of the people issue bonds for an additional \$1,000,000 for the improvement of Lake Clifton (Charter, Sec. 6, p. 30).

The city is authorized to pay the Catonsville Water Company a fair value for its pipes before laying city mains into the territory occupied by the company named and also to pay damages to the said company occasioned by the acquisition of its pipes. Before the mayor and council can extend the city mains into territory previously supplied

with water by an independent company they must either purchase or condemn the property of such company. The city has power to purchase all the property, rights and estates of any company previously authorized or which may be authorized to introduce water into the city (Charter, Sec. 6, p. 31).

(f) *Sewers and drains.*

The mayor and council have power to construct, open, enlarge and straighten any sewer or drain whether public or private through any private property upon 30 days' notice to the owner or agent of the same and to assess the cost against the property so entered in proportion to the benefit derived. Notice of a proposed ordinance for opening a sewer or drain through private property must be given in at least two daily papers twice a week for 60 days (Charter, Sec. 821).

(g) *Markets and abattoirs.*

The council may erect, regulate, control and maintain markets and regulate the sale of all goods or articles therein; it may lease, sell or dispose of stalls in markets and it may authorize clerks of markets to seize meats, vegetables or other articles belonging to occupiers of stalls who have not paid their rents; it may contract for, purchase, lease or hold in fee-simple, or for a term of years renewable from time to time forever, any land or interest in land, tenements and appurtenances in the vicinity of any market for the purpose of extending the same; it may condemn land for market purposes (Charter, Sec. 6, p. 13).

(h) *Wharves, docks and landings.*

The council has power to provide for the preservation of the navigation of the Patapsco River; to clean and deepen the harbor, docks and basin and to regulate the stationing and anchoring of vessels; to survey and make charts of the harbor, basin and of the River Patapsco and if necessary fix buoys and water marks to facilitate navigation; to prohibit persons from throwing earth, dirt or sand into the Patapsco River and to regulate the leaving of earth, dirt and sand on shore below common high-water mark; to cause the basin and harbor to be cleaned, scoured, cleared and ballasted; to levy reasonable fees on vessels entering and clearing from the port; to make regulations concerning wharves and wharfage and keeping wharves in repair; to prevent vessels from throwing filth or ballast into the harbor and to prevent filth, earth or soil from being thrown from wharves. The council may provide for constructing wharves and quays along the margin of Jones Falls and in general to conduct and construct extensive improvements along that stream and in order to do so it is given power to condemn the necessary property and to change the grades of streets. Tolls and wharfage may be collected from all vessels using such quays or wharves (Charter, Sec. 6, pp. 10-13).

(7) Public recreation.

The council has power to establish, maintain, control and regulate parks or squares in the city of Baltimore for the recreation and benefit of its citizens (Charter, Sec. 6, p. 13). However, the power to control and make rules and regulations concerning the parks is almost entirely vested in the Board of Park Commissioners appointed by the mayor with the consent of the Second Branch of the council (Charter, Secs. 90-98).

The council is also given power to establish, regulate and control all squares, springs and monuments erected or constructed in the city and to provide for their maintenance (Charter, Sec. 6, p. 17).

(8) Education.

The council may establish a system of free schools which must include a school for industrial or manual training and it may levy and collect such taxes as may be necessary to defray all expenses incurred for educational purposes (Charter, Sec. 6, p. 17).

(9) Charities and corrections.

The council may erect or establish houses of correction, almshouses, reformatories and hospitals within or without the city and make all regulations for governing the same. The city may also own, regulate and control the jail of Baltimore City (Charter, Sec. 6, pp. 9, 10).

Boston.

(Note.—To make a satisfactory digest of the powers which may be exercised by the Boston council is an exceedingly difficult undertaking. The provisions regulating the government of the city are not to be found in one or even in a few statutes. The first charter for Boston was granted by the General Court in 1822 and while it was superseded by the charter of 1854 many of its most important provisions were merely repeated in the later charter. The section in the act of 1854 conferring general powers on the council is, in its main features, the same as the act of 1822 which authorized the council to exercise "all powers heretofore vested in the town of Boston or in its inhabitants as a municipal corporation." Since the town of Boston was established in 1630 the uncertainty created by such a grant of power is not inconsiderable. An additional difficulty is added by the fact that the charter of 1854 has been amended in important particulars by acts of 1885, 1890, 1891, 1893, 1895, 1900 and 1904 as well as by innumerable special acts of lesser importance. Finally the Massachusetts Revised Laws (1902, Chap. 26, Sec. 1) provide that cities have the powers of towns and that all acts relating to towns apply to cities unless in conflict with the special acts by which the cities are established.

In general it may be said that the legislative power of the Boston council is quite restricted. While the powers granted may seem to be sufficiently broad the council has been left a very narrow sphere of activity owing to the extent to which the legislature has provided by general laws for matters which are usually left to the city councils. This is particularly true in regard to those powers which in our classification fall under Police and Public Utilities. By consulting the portion of the digest dealing with the administrative officers and boards of Boston this will be more clearly apparent.—Ed.)

(1) General powers.

Cities in Massachusetts, subject to provisions in the general laws, have the powers, exercise the privileges and are subject to the duties and liabilities provided in the acts establishing them. City councils have the powers of towns and the laws relating to towns apply to cities so far as consistent with the general and special laws relative thereto (Mass. Rev. Laws, 1902, Chap. 26, Secs. 1, 2). In accordance with this principle city councils may, for the purposes specified in the case of towns, make such orders and by-laws, not repugnant to law, as they may judge conducive to the welfare of the city (Ib., Ch. 25, Sec. 23). By the act of 1854 the general legislative power of the Boston council is stated as follows: "All other powers heretofore by law vested in the town of Boston, or in the inhabitants thereof, as a municipal corporation, or in the city council of the city of Boston, shall be and hereby are continued to be vested in the mayor, aldermen and common council of the said city, to be exercised by concurrent vote, each board, as hereby constituted, having a negative on the proceedings of the other, and the mayor having the veto power, as hereinafter provided. More especially they shall have power to make all such needful and salutary by-laws and ordinances, not inconsistent with the laws of this Commonwealth, as towns by the law of this Commonwealth have power to make and establish, and to annex penalties not exceeding \$50 for the breach thereof; which by-laws and ordinances shall take effect and be in force from and after their passage, or the time therein respectively limited, without the sanction or confirmation of any court or any other authority whatsoever" (Mass. Acts and Resolves, 1854, Ch. 448, Sec. 35).

(2) Powers over the structure of the city government.

The council may provide for the appointment or election of all necessary officers, for the good government of the city, which are not otherwise provided for and may prescribe their duties and fix their compensation (Mass. Acts and Resolves, 1854, Chap. 448, Sec. 38). This power so broadly given is not of as great importance as may be supposed, since the legislature has provided for the organization of two-thirds of the executive departments. Of the 43 principal executive of-

ices and departments only 14 have been created by ordinance. The remainder are statutory (See Boston Municipal Register, 1905, pp. 36, 37).

(3) **Police power.**

(a) *General police powers.*

The council may provide for preserving peace and good order and maintaining the internal police (Mass. Rev. Laws, 1902, Chap. 25, Sec. 23).

(b) *Police force.*

The council may establish a police department and determine the number of its members (Ib., Chap. 32, Sec. 1), but the police board of Boston is appointed by the governor (Mass. Acts and Resolves, 1885, Chap. 323).

(c) *Public safety.*

Fire.—The council is given power to establish a fire department and to make regulations concerning the management and conduct of fires (Mass. Acts and Resolves, 1850, Chap. 262, Sec. 1).

The commissioner who is at the head of the fire department exercises such powers as are conferred by the city council (Ib., 1895, Chap. 449, Sec. 10). The council may also make appropriations for the relief or indemnity of any officer or member of the fire department sustaining physical injury or contracting illness as a result of the performance of duty (Ib., 1850, Chap. 262, Sec. 5).

Building regulation.—The council may make provision as to the erection of balustrades and other projections on the roofs or sides of buildings; it may take measures to prevent the fall of snow or ice from roofs and to secure the removal therefrom and to require owners to take precautions against the fall of snow and ice (Mass. Rev. Laws, 1902, Chap. 25, Secs. 23, 38).

Miscellaneous.—Cities may pass ordinances to prevent persons from riding or driving beasts of burden at a rate of speed inconsistent with the public safety; to prohibit persons from riding or propelling or causing to be propelled vehicles not drawn by horses at rates of speed not considered consistent with public safety and the council may fix a penalty of not over \$100 or imprisonment for not over 10 days or both for the violation of such last named ordinances (Mass. Rev. Laws, 1902, Chap. 52, Secs. 6, 7).

(d) *Convenience.*

The council may pass ordinances and by-laws to prevent the pasturing of cattle or other animals with or without a keeper; ordinances relative to the passage and driving of sheep, swine and cattle; ordinances regulating the passage of carriages and sleighs or other vehicles

or the use of sleds for coasting; ordinances regulating and controlling persons who frequent public places playing on hand-organs, drums, trumpets and other musical instruments. A penalty of not over \$20 may be attached for the violation of any of these provisions (Mass. Rev. Laws, 1902, Chap. 52, Sec. 6).

(c) *Health.*

The council has from early times had wide powers to make regulations concerning the public health. These powers were originally vested in the town of Boston. In 1799 a board was created through which the health powers were exercised. This board was abolished by the charter of 1822 and all its powers were exercised directly by the mayor and council until 1873. The present board was established by ordinance in 1872 and organized in 1873 (See Boston Municipal Register, 1905, p. 55). The power of the council regarding health extends to nuisances, quarantines, the prevention and control of infectious and contagious diseases, the inspection of schools, ice, milk, food stuff, etc. (See Mass. Acts and Resolves, 1854, Ch. 448, Sec. 40; *Ib.*, 1816, Ch. 44; *Ib.*, 1895, Ch. 449, Sec. 19; Mass. Rev. Laws, 1902, Ch. 26, Sec. 18).

The council by ordinance may regulate the transportation of the offal of slaughtered animals upon or through any way or bridge and affix a penalty of not over \$100 for each violation thereof (Mass. Rev. Laws, 1902, Chap. 52, Sec. 6). Cities must provide for the treatment in a hospital or as out patients of indigent persons suffering from infectious or contagious venereal disease (*Ib.*, Ch. 75, Sec. 39). And cities must establish isolation hospitals for the reception of persons having small-pox or any other disease dangerous to the public health (*Ib.*, Sec. 40).

(f) *Fraud and extortion.*

Almost everything under this head is provided for in great detail by general laws. By laws applying to the entire state the Massachusetts legislature has established almost every kind of police inspection and regulation ordinarily left to city councils. Even the duties of the officers conducting inspections are fixed with extreme minuteness. The result is that almost the only power exercised by cities under this head is the choice of the inspecting officers, and in that the council has no part. In one instance the right to make regulations of this nature has been found: i. e., cities may pass ordinances for the regulation of hay scales (Mass. Rev. Laws, 1902, Ch. 57, Sec. 35).

(g) *Public morals.*

In this respect also the field has been very thoroughly covered by general laws. About all that is left to the city authorities is the execution of the regulations established by the legislature.

(4) Financial powers.**(a) Debt.**

Debt may not be incurred beyond 2 per cent on the average valuation of the property within the city as assessed during the previous 3 years (Mass. Acts and Resolves, 1885, Ch. 178, Sec. 2; *Ib.*, 1900, Ch. 399).

Debt may be incurred for the establishing of a gas or electric lighting plant in addition to the regular debt limit, but to an amount not exceeding $2\frac{1}{2}$ per cent of the last preceding state valuation (Mass. Rev. Laws, 1902, Ch. 27, Sec. 5).

Debts other than those for temporary loans in anticipation of taxes, or for expenses incurred in altering crossings, may not be created except by a two-thirds vote of all members elected to each branch of the city council (*Ib.*, Sec. 8). Where a debt is incurred within the limitation, bonds, notes or scrip may be issued therefor, with interest paid semi-annually, and sold at not less than par (*Ib.*, Sec. 9).

Debts contracted for supplying the city with water, acquiring land for play-grounds, for city lighting or for sewers must be payable within 30 years; debts created on account of school and other public buildings or for securing land therefor, and for all other purposes are payable within 20 years (*Ib.*, Sec. 11).

The interest on the city debt must be raised annually by taxation. If a debt is payable in exceeding 10 years a sinking fund must be created and an amount added annually thereto sufficient to extinguish the debt at maturity. If a debt is payable within 10 years, at least 8 per cent of the principal thereof must be raised by taxation annually and set aside as a sinking fund until enough is secured to extinguish the debt at maturity. Instead of establishing a sinking fund the city may vote to pay annually such portion of the debt as will extinguish it at maturity and thereupon such annual portion will be added to the regular taxes until the debt is extinguished (Mass. Rev. Laws, 1902, Ch. 27, Secs. 12, 13). When once a sinking fund is established contributions to it must be continued until sufficient has been accumulated to pay the debt for which it was established (*Ib.*, Sec. 17).

The city debt may not be increased for the purpose of aiding a railroad company to an amount which, with existing net indebtedness and excluding temporary loans, would exceed 3 per cent of the valuation of the taxable property (*Ib.*, Sec. 23).

(b) Appropriations.

The city council may appropriate money for the support of public schools; for poor relief; for laying out, discontinuing and improving alleys and highways; for the purchase and improvement of parks; for printing and publishing city histories; for burial grounds; for planting shade trees; for necessary aid to soldiers and sailors; for erecting head-stones at soldiers' graves or to the memory of firemen who die in

the service; for marking historic spots; for necessary and convenient public drinking troughs and fountains in the streets and public squares; for procuring the apprehension and detection of persons committing felonies; for the establishment, maintenance and increase of a public library and for the erection of a library building; for maintaining a free library and for all other necessary charges of the city (Mass. Rev. Laws, 1902, Ch. 25, Sec. 15).

The various heads of departments and all officers having authority to spend money must furnish to the mayor annually an estimate of the money required for their respective departments and offices for the next financial year. The mayor examines these estimates and submits them together with his recommendations to the city council (Mass. Acts and Resolves, 1885, Ch. 226, Sec. 8). The annual appropriation ordinance is prepared by a joint committee of the two houses of the council (Boston Municipal Register, 1905, p. 27). Any item in an ordinance passed by the council appropriating money may be vetoed by the mayor and when so vetoed can only be retained in the ordinance by a two-thirds vote of all the members elected to each house (Mass. Acts and Resolves, 1885, Ch. 226, Sec. 9).

(c) *Taxation.*

Taxes assessed on property in Boston for municipal purposes, exclusive of sums to be raised on account of the city debt, may not in any year exceed \$10.50 in each \$1,000 of the average assessed valuation of the taxable property as taken for the preceding 3 years (Mass. Acts and Resolves, 1900, Ch. 399).

The city council has power to assess and collect taxes for all purposes for which towns are by law required or authorized to assess and grant money and also for all purposes for which county taxes may be levied and assessed (Mass. Acts and Resolves, 1854, Ch. 448, Sec. 36). Carriages and vehicles used in the city may be licensed and a fee of \$1.00 charged therefor.

(d) *Miscellaneous.*

Money may be appropriated to pay a proper charge to an insurance company for acting as surety on the official bond of a city officer (Mass. Rev. Laws, 1902, Ch. 26, Sec. 23).

The council may by ye and nay vote of two-thirds of the members present and voting appropriate money for armories for the state militia and for the celebration of holidays and for other public purposes, to an amount not exceeding in any one year one-fiftieth of 1 per cent of the valuation of the city for such year (Ib., Sec. 28).

The council may require that all fees, charges and commissions allowed by law to the city clerk, tax collector or other officer shall be paid into the city treasury (Ib., Sec. 17).

(5) Streets and public ways.

The council has the usual power regarding the opening, constructing and maintenance of streets. These powers are exercised under ordinance by the superintendent of streets who is appointed by the mayor. The street department also has charge of bridges and ferries. The laying out of streets is in charge of a board of street commissioners (Mass. Acts and Resolves, 1895, Chap. 449, Sec. 25; Boston Municipal Register, 1905, p. 80).

The council may by ordinance regulate the width of the tires of vehicles used on the streets (Mass. Rev. Laws, 1902, Ch. 25, Sec. 23). It may also compel the cleaning of sidewalks and that snow and ice be removed therefrom (Ib.).

Ordinances may be enacted to prohibit persons from riding or driving horses over bridges at a rate faster than a walk if the bridge has cost not less than \$500. The city may also pass ordinances regulating the passage of vessels through draw-bridges and may fix penalties not exceeding \$50 for each violation thereof, but such ordinances cannot take effect until approved by the board of harbor and land commissioners (Mass. Rev. Laws, 1902, Chap. 52, Secs. 18, 26).

(6) Public utilities and public service.**(a) *Franchises in general.***

The council as a whole in Boston has little control over franchises. Such powers as exist are exercised by the mayor and aldermen, or upper house of the council. In this respect, as in so many others, the affairs of Massachusetts cities are controlled by general state laws, and are under the supervision and control of state boards.

(b) *Transportation.*

The right to use the streets for street railways is under control of the board of aldermen. Any company or corporation desiring to use the streets must petition that body for the grant of the privilege. The board of aldermen, after giving notice of fourteen days by publication in a newspaper of the time and place of the hearing of the petition, may, after the hearing, grant the petition if they think the public necessity requires it. The aldermen may prescribe how the tracks shall be laid, and the kinds of poles, wires and other appliances which may be used and impose any other conditions and obligations in addition to the general provisions of the law that in its judgment the public good may require. If within fifteen days after the board of aldermen has granted a petition for the location of tracks at least ten owners of real estate abutting on the public way in which the location has been granted, or a majority in value of such owners, file a written protest with the state board of railroad commissioners, the location in such public way shall not be granted unless approved by the commissioners after public notice and hearing. A street rail-

way company cannot begin construction until after the expiration of the fifteen days permitted for filing the protest. If a protest is filed with the board of railway commissioners construction cannot be begun until the question raised by the protest is decided by that body (Mass. Rev. Laws, Ch. 112, Sec. 7). The construction and operation of street railways is at all times under the close supervision and control of the state board of railway commissioners.

The board of aldermen, after one year from the opening of a street for use of a street railway and after notice as provided above and a public hearing, may, for good and sufficient reasons, if they think the public good and convenience in the use of the streets so requires, revoke the location of any street railway in any such street or highway of the city. But unless the company consents in writing to such revocation within 30 days, the order is not valid unless approved by the board of railway commissioners after public notice and hearing (Ib., Sec. 32).

The aldermen are given power to establish rules and regulations as to the rate of speed of cars and manner of using street railway tracks within the city, and a street railway company or its servants or agents who wilfully violate such regulations must forfeit not over \$500 for each offense. The regulation by the board of aldermen extends to the manner and extent of the use of tracks and the number of cars run on the tracks. Regulations established by the board of directors of the street railway company are subject to the approval, revision and alteration of the board of railway commissioners (Ib., Secs. 40, 42).

(c) *Gas and electric light.*

The use of the streets for gas and electric lights is secured and exercised under similar conditions and restrictions to those which exist in the case of street railways. The right to use the streets is granted by the mayor and aldermen, but there is no appeal from the decision of the mayor and aldermen to the state board of electric light and gas commissioners, if there is objection to the privilege granted. The mayor and aldermen may regulate, restrict and control all the acts of any gas or electric light company using the streets of the city which may in any way affect the health, safety and convenience of the people (Mass. Rev. Laws, 1902, Ch. 121, Secs. 17, 19).

Cities may acquire, construct, purchase, lease and maintain, within their limits, one or more plants for the manufacture and distribution of gas and electricity for furnishing light for municipal use, or light, heat or power (except for the operation of electric cars) for the use of their inhabitants. A city may not acquire such a plant until authorized to do so by a vote of two-thirds of each branch of its city council, passed in each of two consecutive municipal years, and thereafter ratified by a majority of the voters at an annual or special city election. If a proposition when submitted is not ratified, a similar

proposition cannot be submitted within a year thereafter (Mass Rev. Laws, 1902, Ch. 34, Secs. 1, 2).

A city which establishes, purchases, reconstructs, or enlarges a gas or electric light plant, may by vote taken as prescribed above, issue bonds in payment thereof. The amount of bonds issued may not exceed 2.5 per cent. of the valuation of the city according to the last preceding State valuation. Such bonds must be payable within thirty years; bear interest at not over 5 per cent. and may not be disposed of for less than par. Instead of issuing such bonds for the acquisition of gas or electric light plants, a city may provide for the payment of the debt by annual payments sufficient to extinguish it within thirty years, and may issue bonds, notes or scrip therefor. When a city adopts this alternative, the amount required for the annual payment is without further vote assessed by the assessors until the debt is extinguished. A city which operates such a plant may pass ordinances or by-laws imposing penalties not exceeding \$50 to protect the plant, control its use, and prevent accident from gas or electricity supplied by it, and to govern consumers in their use thereof (Mass. Rev. Laws, 1902, Ch. 34, Secs. 1, 2, 7, 8, 26).

When a person is authorized by the council to erect poles and structures for the transmission by electricity of light, heat or power, the poles and structures become the property of the city and the council may regulate and control the same (Rev. Laws, 1902, Ch. 25, Sec. 52). This section does not apply to street railways.

(d) *Telephones and telegraphs.*

The council may authorize the construction of telegraph lines for the use of the city (Rev. Laws, 1902, Ch. 25, Sec. 51).

The council may permit telegraph and telephone lines to be laid under any way or square and may establish regulations for the erection and maintenance of all such lines or of electric lights, or for the transmission of heat or power, except such as is used by street railway companies, such regulations to apply to all persons having authority to place poles, wires or structures for any purpose in or under public ways (Ib., Ch. 26, Sec. 6; Ch. 25, Sec. 54).

(e) *Water.*

The powers exercised by other Massachusetts cities over their water supply are, in Boston, exercised by the Metropolitan Water Board appointed by the governor. Consequently the power of the Boston city council over the water supply is very limited (See Mass. Rev. Laws, 1902, Ch. 25, Sec. 38).

The council has power to regulate by any designated board or commission, the inspection, material, construction, alteration or use

of pipes or fixtures through which water is supplied by public water works, and to prohibit the use of such water by persons neglecting or refusing to comply with such rules (Ib., Sec. 23).

The city council, by ordinance passed by two-thirds vote of each branch, may when the act is ratified by a majority of the voters, voting at a special election, in order to supply water to the citizens, purchase the right to take water from the source or supply of any other municipal corporation, or may purchase its whole right, estates, franchises and privileges, or it may contract for a supply of water (Ib., Ch. 26, Sec. 5; Ch. 25, Sec. 31).

(f) *Sewers and drains.*

The council has the right to regulate the use of public sewers and to declare any sewer or drain laid in any land, street or way, public or private, to be a common sewer (Mass. Rev. Laws, 1902, Ch. 25, Sec. 23).

(g) *Markets and abattoirs.*

In 1823 authority was given the council to extend the limits of Faneuil Hall market and by separate acts in 1849 and 1853 it was empowered to make police regulations for two other markets specified (Mass. Acts and Resolves, 1823, Ch. 148; Ib., 1849, Ch. 243; Ib., 1853, Ch. 131).

(7) **Public recreation.**

Parks and playgrounds.—The council has little control over parks. The park commission is appointed by the mayor, with the approval of the council. This board locates parks and makes all rules for their use and government and appoints all necessary employes, including a police force. Land for parks may not be acquired or expenditure made until an appropriation is made therefor by two-thirds vote of both houses of the council. The council may issue bonds for the amount actually expended for the purchase or taking of lands for parks. The board of park commissioners also has charge of the public playgrounds (Mass. Acts and Resolves, 1875, Ch. 185; Mass. Rev. Laws, 1902, Ch. 28, Secs. 1, 2, 10, 19).

(8) **Education.**

Schools.—The school committee is entirely independent of the council.

Libraries.—The city has power to support and maintain a public library. The library trustees are appointed by the mayor, are incorporated and have general control of the library. The council may pass ordinances, not inconsistent with the Act of 1878 or the general laws, prescribing the powers and duties of the library board. The library is maintained by an annual appropriation voted by the council (Mass. Acts and Resolves, 1878, Ch. 114; Boston, Mun. Reg., 1905, p. 63).

(9) Charities and corrections.

Poor relief.—The overseers of the poor are incorporated under an act of 1864. They are required to report to the city council, but beyond that the council has little control. A portion of the work of poor relief is done by the Pauper Institutions Department, and the Trustees for Children's Institutions, established by the legislature in 1897. In this instance, also, provision is quite fully made by statute, leaving the council little room or reason for action beyond making the necessary appropriations.

Hospitals.—The city was authorized in 1858 to establish and maintain a hospital for the reception of persons who by misfortune or poverty might require relief during temporary sickness. By the same act the city council was given power to make all such ordinances, rules and regulations as it might deem expedient for managing the hospital. (Mass. Acts and Resolves, 1858, Ch. 113.) The hospital trustees were incorporated by an act of the general court in 1880, but the same law continued the power of the council to have, by ordinance, "general control of the city hospital and all branches thereof" and the expenditure of money therefor. The board of trustees is appointed by the mayor with the approval of the council, and the trustees appoint a superintendent and all assistants (Ib. 1880, Ch. 174, Secs. 1, 5, 6).

In 1839 the council was authorized to establish an insane hospital "for the reception of insane persons not furiously mad," and was given power to pass all necessary ordinances for the proper conduct of such an institution. The trustees of the Boston insane hospital are now appointed by the mayor without the approval of the council (Ib. 1839, Ch. 131; 1897 Ch. 451).

Chicago.**(1) General powers.**

The council has power to pass all ordinances, rules and to make all regulations, proper or necessary to carry into effect the powers granted and to fix such fines and penalties as it may deem proper, but no fine or penalty may exceed \$200 and no imprisonment may exceed 6 months for one offense. (Ill. R. S., Ch. 24, Sec. 62, Par. 96.)

(2) Power over the structure of the city government.

The council may provide by ordinance in regard to the relation between all the officers and employes of the corporation in respect to each other, the corporation and the people. It may by ordinance, passed by two-thirds vote of all the members, provide for the election by the people, or the appointment by the mayor with the approval of the council, of a city collector, marshal, superintendent of streets, corporation counsel, comptroller and such other officers as may be deemed necessary and expedient. The council

may by a like vote at the end of the fiscal year discontinue any office so created and it may by ordinance not inconsistent with the laws of the state, prescribe the duties of officers. (Ill. R. S. 1905, Ch. 24, Secs. 62, 73, 193a1.)

(3) Police power.

(a) General police powers.

The council has power to regulate the police of the city and to pass and enforce all necessary police ordinances. (Ill. R. S., Ch. 24, Sec. 62.)

(b) Police force.

The council may prescribe the powers and duties of the superintendent of police and of policemen and watchmen. (Ib.)

(c) Public safety.

Fire.—The council is authorized to erect engine houses and to provide fire engines, hose carts, hooks and ladders and other implements for the prevention and extinguishment of fires and to provide for the use and management of the same by voluntary companies or otherwise. It may compel the construction of fire escapes in buildings, prescribe the limits within which wooden buildings may not be erected or repaired without permission and direct that all buildings within the fire limits when damaged by fire, decay or otherwise to the extent of 50 per cent. of their value shall be torn down or removed and prescribe the manner of ascertaining such damage; prevent the dangerous construction and condition of chimneys, stove-pipes, fireplaces, hearths, stoves, ovens, boilers and apparatus used in and about any building or manufactory and cause the same to be removed or placed in a safe condition; it may regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; prevent the deposit of ashes in unsafe places, and cause all buildings or enclosures that are in unsafe condition to be made safe.

The council may regulate and prohibit the keeping of any lumber yard and the placing, piling and selling of any lumber, timber, wood or other combustible material within the fire limits of the city; regulate and prevent the storage of gunpowder, nitroglycerine, explosive materials, fireworks, firecrackers, etc.; regulate and prevent the storage of tar, pitch, resin, coal oil, benzine, turpentine, hemp and cotton; regulate the use of lights in stables, shops and other places and regulate the building of bonfires. (Ill. R. S., Ch. 24, Sec. 62.)

Building regulation.—The council may regulate places of amusement; regulate the building of party walls and partition fences; prescribe the thickness, strength and manner of constructing stone and other buildings and prescribe that any building found

in an unsafe condition shall be made safe. It may also pass ordinances providing for the examining, licensing and regulation of persons having charge of freight and passenger elevators as starters or operators and may require such persons to submit to examination as to their competency for that occupation and may license those found capable and trustworthy. (Ill. R. S., Ch. 24, Secs. 62, 653, 654.)

Machinery.—The council may provide for the inspection of steam boilers and for the licensing and regulation of persons having charge of boilers under steam pressure exhausting through an engine and may require that no person shall operate such a boiler within the city limits without a license. In order to enforce this provision the council may provide for a board of examiners and require all persons operating such boilers to submit to examination. (Ill. R. S., Ch. 24, Secs. 439, 440.)

Miscellaneous.—Railroads may be required by ordinance to fence their tracks and construct cattle guards at street and railroad crossings and keep the same in repair within the corporate limits. The council may require railroad companies to keep flagmen at railroad crossings of streets and to raise or lower their tracks to conform to any grade established by the city. It may also regulate the speed of horses and other animals, vehicles, cars and locomotives within the corporate limits and regulate or prohibit running at large of dogs. (Ill. R. S., Ch. 24, Sec. 62.)

(d) *Convenience.*

The council may regulate or prohibit the exhibition or carrying of banners, placards, advertisements or handbills in the streets, public grounds and upon sidewalks; it may regulate and prevent the flying of banners, flags or signs across the streets or from houses; regulate traffic and sales upon the streets, sidewalks and upon public places; regulate and restrain or prohibit the running at large of horses, cattle, sheep, swine, goats and geese and it may prevent and regulate the rolling of hoops, playing of ball, flying of kites or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks or to frighten teams or horses. (Ill. R. S., Ch. 24, Sec. 62.)

(e) *Health.*

The council may do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease. It may establish a board of health and prescribe its powers and duties.

The council has power to establish and regulate cemeteries within and without the corporation and to acquire land for cemeteries within or outside the city limits; it may cause cemeteries to be removed or prevent their establishment within one mile of the

corporation. (Ill. R. S., Ch. 24, Sec. 62.) It may also regulate the location and construction of hospitals and infirmaries. (Ib., Sec. 193at.)

The council may declare what shall be a nuisance and may abate the same and impose fines for the suppression and abatement thereof; it may direct the location, regulation, management and construction of packing houses, renderies, tallow chandleries, bone factories, soap factories and tanneries within the city limits or one mile thereof; it has power to regulate and direct the construction of breweries, livery stables, blacksmith shops and foundries, and to tax, license and regulate distilleries, breweries and livery stables; to regulate the construction, repair and use of cisterns, hydrants, areas, pumps and sewers; to prohibit any offensive or unwholesome business or establishment within the city or within one mile of its limits; to compel the owner of any grocery, cellar, soap or tallow chandlery, tannery, stable, pig sty, privy, sewer or other unwholesome or nauseous house or place to cleanse, abate or remove the same, and to regulate the location thereof. (Ill. R. S., Ch. 24, Sec. 62.)

The Council may compel railroad companies to make and keep open and in repair ditches, drains, sewers and culverts along and under their tracks so that filthy and stagnant pools of water cannot stand on the right of way and so that the drainage of adjacent property will not be impaired and it may provide for cleansing and purifying water courses and canals and for draining or filling of ponds on private property when necessary to abate or prevent nuisances. (Ib.)

The council is authorized to regulate the sale of meats, poultry, fish, butter, cheese, lard, vegetables and all other provisions and to provide for the place and manner of selling the same; to provide for the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, cotton, tobacco, flour, meal and other provisions and to regulate the sale of bread and prescribe the quality of bread in the loaf. (Ib.)

(f) *Fraud and extortion.*

The council may license and regulate auctioneers, public scales, money changers and brokers; it may tax, license and regulate junk and second-hand stores and forbid their purchasing or receiving from minors without the written consent of parents or guardians; license, tax and regulate hackmen, draymen, omnibus drivers, carters, cabmen, porters and expressmen and others pursuing like callings and prescribe their compensation. It may license, tax, regulate and suppress or prohibit hawkers, peddlers, pawn brokers, itinerant merchants and transient venders of merchandise. The council may prevent and punish forestalling and regrating; regulate the sale of bread in the city and prescribe the weight and quality of bread in the loaf; regulate the inspection, weighing and

measuring of brick, lumber, firewood, coal, hay and other articles of merchandise; provide for the inspection and sealing of weights and measures and enforce the keeping of proper weights and measures by vendors. (Ill. R. S., Ch. 24, Secs. 62, 62a.)

(g) *Public morals.*

The council has power to license, regulate and prohibit the selling or giving away of intoxicating liquors. Liquor licenses cannot extend beyond the municipal year in which granted and in granting licenses the corporate authorities must comply with any general state laws regarding the same. The council may also forbid or punish the selling or giving away of intoxicating liquors to a minor, apprentice, servant, insane, idiotic or distracted person, habitual drunkard or person intoxicated. (Ill. R. S., Ch. 24, Sec. 62.)

The council has power to license, tax, regulate, prohibit or suppress billiard, bagatelle, pigeon hole tables (or other instruments kept or used for similar purposes in any place of public resort), pin alleys or ball alleys. The council may suppress gambling houses, lotteries and all fraudulent practices and devices for the purpose of gaining money or property. (Ib.)

The council is authorized to suppress bawdy or disorderly houses, houses of ill-fame or assignation, within the limits of the city or within three miles of its outer boundaries, and to restrain and punish prostitutes. (Ib.)

Licenses may not be granted to any person to keep a house of ill-fame and boards of health may not interfere in their management or provide in any manner for the medical inspection of any inmate of such a house. (Ill. R. S., Ch. 24, Sec. 245.)

The council may also prohibit the exhibition or sale of obscene or immoral publications, prints or pictures and it is empowered to prevent and punish cruelty to animals. (Ill. R. S., Ch. 24, Sec. 62.)

(4) Financial powers.

(a) *Debt.*

The council may borrow money for corporate purposes on the credit of the corporation and issue bonds therefor in such amounts and form and on such conditions as it may prescribe. But the city may not become indebted in the aggregate to exceed 5 per cent. on the assessed valuation of the taxable property, unless by the consolidation of the taxing bodies within the city, authorized by the constitution (Const. IV, 34, Chicago Charter Amendment), it becomes liable for the debt of two or more of them. In case the city becomes liable for such indebtedness the legislature may extend the debt limitation to 5 per cent. of the real valuation of the taxable property. (Ill. R. S., Ch. 24, Sec. 62; Ill. Const. IV, 34.)

New bonded indebtedness may not be incurred except for refunding purposes unless assented to by a majority of the voters.

Before incurring indebtedness the council must provide for the collection of a direct annual tax sufficient to pay the interest on the debt and also to pay and discharge the principal within 20 years. The council may issue bonds to replace maturing bonds or for funding purposes. (Ill. R. S., Ch. 24, Sec. 62.)

(b) *Appropriations.*

The council has power to appropriate money for corporate purposes and to provide for paying the debts and expenses of the corporation. (Ib.) It must, within the first quarter of each fiscal year, pass an annual appropriation bill by which sums of money necessary to defray the necessary expenses and liabilities of the city are appropriated. The ordinance must specify the objects for which the appropriations are made and the amount appropriated for each object. No further appropriations may be made at any time within the fiscal year unless the proposition to do so is sanctioned by a majority of the voters either by petition signed by them or at a general or special election. (Ill. R. S., Ch. 24, Sec. 89.)

The council cannot add to the corporate expenditures in any year anything over and above the amount provided in the annual appropriation bill and the expenditure for an improvement to be paid out of the general fund may not in any year exceed the amount appropriated for that purpose. However, the council may by a two-thirds vote order improvements made necessary by any casualty or accident happening after the annual appropriations are made. (Ib., Sec. 90.) Contracts cannot be made by the council or any committee thereof whether the object of the expenditure shall have been ordered by the council or not, unless an appropriation has been previously made for such expense. (Ib. Sec. 91.)

(c) *Taxation.*

The council annually before the third Tuesday in September must ascertain the total amount of all appropriation for corporate purposes legally made and to be collected from the tax levy of the fiscal year. It must then by ordinance specify in detail the purposes for which the appropriations are to be made and levy the amount ascertained upon all property subject to taxation within the city as it is assessed and equalized for state and county purposes.

The aggregate amount of taxes levied for any one year, exclusive of the amount levied for the payment of the bonded debt or interest thereon, cannot exceed 2 per cent. upon the assessed valuation of all property subject to taxation within the city as equalized for state and county taxes for the current year. (Ill. R. S., Ch. 24, Sec. 111.) Since by the act of February 28, 1898, the assessed valuation of taxable property is arbitrarily fixed at 20 per cent. of its real value the tax limit for Chicago is two-fifths of 1 per cent. (4 mills on the dollar) of the real value of the taxable property within the city. The June law of 1901 effected a still further

limitation by providing that the aggregate of all taxes against property in any district, excepting state taxes, school building taxes and levies by order of court cannot exceed 5 per cent. of the assessed valuation. The assessed valuation, as previously stated, being fixed at 20 per cent. of the real value, the result of the Juul law is that the total tax against any property cannot exceed 1 per cent. of its real value. If the aggregate tax exceeds this amount, the county clerk must reduce all the rates certified to him in the same proportion so as to bring the total within the limit. As a protection to the city this law was amended in 1905 so that the county clerk in scaling down the tax levy is prohibited from reducing the levy for city purposes (exclusive of school, library and park taxes) below 1.8 per cent. of the assessed valuation. Consequently the actual limit of taxation for city purposes is .036 per cent. on the real valuation, or, in other words, 3.6 mills on the dollar. (Ill. R. S. 1905, Ch. 120, Sec. 343b. See also Merriam, Report on the Municipal Revenues of Chicago, pp. 10-12.)

The council has power to levy and collect taxes for general and special purposes on real and personal property and to fix the amounts, terms, and manner of issuing and revoking licenses. (Ill. R. S., Ch. 24, Sec. 62.)

The council may by ordinance make such local improvements as are authorized by law, by special assessments or special taxation of contiguous property or by general taxation or otherwise as it may direct. Any ordinance providing for a local improvement must prescribe whether the improvement is to be made by special assessment or otherwise, and no ordinance providing for making local improvements, to be paid for wholly or in part by special assessments or special taxation of contiguous property, can be considered or passed by the city council unless it has originated with the board of local improvements and has been recommended to the council by that body. The board has power to originate any scheme for local improvements either upon petition of the property owners or upon its own initiative. (Ill. R. S., Ch. 24, Secs. 507, 511, 513.) Ordinances ordering local improvements may not be repealed except upon the written recommendation of the board of local improvements. (Ib., Sec. 605a.)

(d) *Miscellaneous.*

The council must provide by ordinance that all paper, printing, stationery, blanks, fuel and all other supplies needed for the use of the city shall be furnished by contract let to the lowest bidder. (Ib., Sec. 62.)

(5) **Streets and public ways.**

The council has power to lay out, establish, alter, open, widen, extend, grade, pave or otherwise improve streets, alleys, avenues, sidewalks and vacate the same and regulate their use. The coun-

cil may not vacate or close a street or alley or any portion thereof except by a three-fourths vote of all the aldermen. (Ill. R. S., Ch. 24, Sec. 62; Ch. 145, Sec. 1.)

The council may plant trees on streets; prevent and remove encroachments and provide for lighting and cleaning the streets; regulate their opening for the laying of gas pipes, water mains, building and repairing sewers, tunnels and drains and erecting gas lights; extend any street, alley or highway by condemnation or otherwise; regulate the use of sidewalks and structures thereunder; require owners or occupants of premises to keep sidewalks in front of or along the same free from snow or other obstruction; regulate and prevent the throwing of ashes, offal, dirt, garbage and any offensive matter in the streets; prevent injury to any street, alley or public ground; provide for and regulate cross walks, curbs and gutters; regulate and prevent the use of streets, sidewalks and public grounds for signs, sign posts, awnings, awning posts, telegraph poles, horse troughs, racks for posting handbills and advertisements. (Ill. R. S., Ch. 24, Sec. 62.) The council has power to name and change the names of streets, alleys, avenues and public places. It may permit, regulate or prohibit the locating, constructing or laying the tracks of a horse railroad in any street, alley or public ground, but such permission cannot be for over twenty years.

The council may regulate the use of space over streets, alleys and public places of the city and upon payment of proper compensation to be fixed by ordinance may permit the use of space more than twelve feet above the street level. (Ill. R. S., Ch. 24, Sec. 193ap.)

The council has power to construct and keep in repair bridges, viaducts and tunnels and to regulate their use; to establish ferries and toll bridges and to license and regulate the same and from time to time fix the tolls thereon. It may authorize the construction of mills, mill races and feeders on, through and across streets at such places and under such regulations as it may deem proper. (Ill. R. S., Ch. 24, Sec. 62.)

The city may acquire and maintain ferries and bridges and the approaches thereto either within the corporate limits or within five miles thereof; it may also construct, maintain and improve roads within five miles of the corporate limits connecting with such bridges or ferries and may donate money to aid the township in which any such bridge, road or ferry is situated in building or improving the same. Such ferries, roads and bridges must be free to the public, and when situated outside the corporate limits are subject to the municipal control and ordinances of the city the same as though within the city limits. (Ib., Sec. 194a.)

(6) Public utilities and public services.**(a) *Franchises in general.***

There are no provisions in the Illinois laws relating to franchises in general. However, the field is adequately covered by the acts relating to the particular classes of public services and public service companies.

(b) *Transportation.*

The council may permit, regulate or prohibit the locating, constructing or laying the track of a horse railroad in any street, alley or public ground. Such permission cannot be for over twenty years, and the council may not grant the use of the streets or the right to lay down any railroad tracks in a street of the city to any steam, dummy, electric, cable, horse or other railway company, whether incorporated under the general laws of the state or by special law, except upon petition of the owners of the land representing more than one-half of the frontage of the street or part thereof sought to be used for railroad purposes. When the street sought to be used is more than a mile in length no petition of land owners is valid unless signed by owners representing more than one-half of the frontage of each mile or fraction of a mile in excess of whole miles, sought to be used, measuring from the initial point named in the petition. (Ill. R. S., Ch. 24, Sec. 62.)

The city has power to own, construct, acquire, purchase and operate street railways within the corporate limits and to lease the same to any company incorporated under the laws of the state for the purpose of operating street railways. A lease to operate may not be for more than twenty years, and the city itself may not proceed to operate street railways unless the proposition to do so has been submitted to the electors as a separate proposition and ratified by three-fifths of those voting thereon. The city may incorporate in any grant of the right to construct or operate street railways a reservation of the right to take over all or part of such railway either at or before the expiration of the grant, and upon such terms as may be provided in the grant. It may also be provided in any such grant that in case the reserved right is not exercised by the city, but that instead the city grants the right to another company to operate street railways in the streets or parts thereof occupied by the original grantee, then the new grantee must purchase and take over the street railway of the original grantee on the same terms as it might have been taken over by the city. The city council may make a grant for either the construction or operation or for both the construction and operation of a street railway, upon and along any street in which a street railway is located at the time of making the grant, without the petition or consent of the owners of land abutting on such street. (Ill. R. S., Ch. 24, Sec. 655; Ill. Laws, 1903, p. 285.)

No ordinance authorizing a lease of a street railway for over five years and no ordinance renewing a lease can go into effect until sixty days after its passage. If during that time a petition, signed by a number of voters equal to 10 per cent. of the votes cast at the last preceding election for mayor is filed with the city clerk, asking that such ordinance be submitted to a popular vote, then the ordinance cannot go into effect until submitted to the electors and approved by a majority of those voting thereon.

When it is decided by popular vote to operate street railways, the council has power to make rules and regulations concerning the operation, including the power to fix and prescribe rates and charges, but rates and charges must always be high enough to provide for all cost of maintenance and operation, to pay interest on the bonds or certificates issued on account of the railway and to permit the accumulation of a surplus or sinking fund that will be sufficient to meet all outstanding bonds and certificates at maturity. Street railways owned and operated by the city may be operated by any motive power the council may approve, except steam locomotives.

For the purpose of acquiring street railways either by purchase or construction or for their equipment, the city may borrow money and issue negotiable bonds therefor. But such bonds may not be issued unless the proposition to do so shall have been submitted to the electors and approved by two-thirds of those voting thereon, and such bond issue cannot be in excess of the cost to the city of the property acquired and 10 per cent. in addition thereto. (Ill. R. S., Ch. 24, Sec. 655; Ill. Laws, 1903, p. 286.)

Instead of issuing bonds in order to provide for the construction or acquisition of street railways, the city may issue and dispose of interest bearing certificates to be known as "street railway certificates." These certificates cannot under any circumstances be or become an obligation or liability of the city payable out of any general fund. They are payable solely out of a specified portion of the revenues and income to be derived from the street railway property for the acquisition of which they are issued. Certificates cannot be issued in an amount exceeding the cost to the city of any street railway property acquired and 10 per cent. in addition thereto. The payment of such certificates may be secured by conveying any or all street railway property acquired by their issue by a mortgage or deed of trust to be executed in such manner as may be directed by the council. Any such mortgage or deed of trust may contain any provisions and conditions, not in conflict with the act of July 18, 1903, deemed necessary to secure the payment of the certificates. And such a mortgage or deed of trust may provide that in case of foreclosure the person or corporation into whose possession the property comes thereby may maintain and operate it for a period not exceeding twenty years. But in

case this right is given in a mortgage or deed of trust, provision may be made for fixing the rate of fare which the person or corporation securing the property as a result of the foreclosure may charge in its operation. Whenever default is made in the payment of the interest or principal of the certificates issued and secured by mortgage or deed of trust, and the default continues for twelve months after notice has been given to the mayor and financial officer of the city, it is lawful for the mortgagee or trustee, when requested by the holders of a majority in amount of the certificates issued and outstanding, to declare the whole of the principal of the outstanding certificates due and payable and to proceed to foreclose the mortgage in a court of competent jurisdiction. At a foreclosure sale the mortgagee or holders of the certificates may purchase the property if he or they are the highest bidders. But any street railway acquired under a foreclosure is subject to regulation by the corporate authorities to the same extent as if the right to construct, maintain and operate had been secured through a direct grant. Street railway certificate may not be issued unless the question of the adoption of the ordinance providing therefor has been submitted to a popular vote and approved by a majority of those voting thereon. (Ill. R. S., Ch. 24, Sec. 656; Ill. Laws, 1903, p. 287.)

The city has power to acquire, take and hold all necessary property for the purposes specified above, either by purchase or condemnation. But in the valuation of street railway property for the purpose of acquisition, except street railways operated under existing franchises, no sum may be included as the value of the earning power of the property or of the unexpired portion of the franchise granted by the city. In case the city leases a street railway owned by it the rental reserve must be based on both the actual value of the tangible property and the value of the franchise contained in the lease, and the rental must be sufficient to meet the annual interest upon all outstanding bonds, or railway certificates issued by the city on account of the railway so leased. (Ill. R. S., Ch. 24, Sec. 655; Ill. Laws, 1903, p. 286.)

(c) *Gas and electric light.*

The city has power to sell surplus electricity for heat, light and power within the corporate limits, and the council may by ordinance prescribe the maximum rates and charges for the supply of gas and electricity for power, heating and lighting furnished by any individual company or corporation to the city or its inhabitants. Such rates and charges must be just and reasonable and cannot be fixed for a period exceeding five years. In case the council fixes unreasonable rates and charges they may be reviewed and determined by the county circuit court. (Ill. R. S., 1905, Ch. 24, Sec. 677; Ill. Laws, 1905, p. 110.)

The council may not by ordinance grant to any person or corporation the right to lay gas pipes for the distribution of gas for fuel or light or grant the right to any person or corporation to lay in or on the ground or string on poles any wires by which electricity for lighting purposes is conveyed or distributed in any street, alley or public ground except upon the petition of the owners of the land representing more than one-half of the frontage of the street or alley or part thereof sought to be used. If the part of a street or alley is more than one mile in length, no rights as above mentioned may be granted unless a petition is presented to the council signed by owners of land representing more than one-half the frontage of each mile or fraction thereof sought to be used. (Ill. R. S., Ch. 24, Sec. 491.)

(d) *Telephone and telegraphs.*

No telegraph or telephone company shall have the right to erect any poles, posts, piers, abutments, wires or other fixtures upon any street, alley, highway or public ground within the city without the consent of the corporate authorities. The consent must be in writing and must be recorded in the recorder's office of the county. The city council has the power to direct any alteration in the location or erection of any such poles, etc., and also in the height of the wires after giving the company or its agents an opportunity to be heard in regard to such alterations. (Ill. R. S., Ch. 134, Secs. 4, 19.)

(e) *Water.*

The city may provide for a supply of water for the purpose of fire protection and for the use of its inhabitants by the erection, construction and maintenance of a system of water works or by uniting with another city for so doing. The city may also secure a water supply from other cities having water works, but contracts for this purpose must be awarded to the lowest bidder. (Ill. R. S., Ch. 24, Sec. 254.) The city may borrow money and levy and collect a general tax for the erection and maintenance of water works. In order to acquire or construct such works the city may go beyond its territorial limits and take, hold and condemn property. (Ib. Secs. 255, 256.)

The council has power to provide for a water supply by boring and sinking artesian wells, constructing reservoirs, etc. It may borrow money for this purpose or may authorize any person or private company to construct water works and distribute water at rates fixed by ordinance, for a period not exceeding thirty years. The council may prevent unnecessary waste of water, the pollution of water and injuries to wells, cisterns, pumps and reservoirs from which the city water is supplied. (Ill. R. S., Ch. 24, Sec. 169.)

The city may go beyond its territorial limits for the purpose of supplying or establishing water works and may hold and acquire

property for that purpose. The jurisdiction of the city to prevent and punish injury or pollution to a stream or other source of water or to the water works may be exercised as far beyond the corporate limits as the water works may extend. (Ib., Sec. 170.) The council has power to make needful rules and regulations concerning the use of water supplied by its water works and to do all acts and make all rules and regulations for the construction; completion, management and control of water works and for levying and collecting such water taxes, rates or assessments as may be deemed necessary. (Ib., Sec. 171.)

The council may prescribe the maximum rate for supplying water by private companies. (Ib., Sec. 267f.)

(f) *Sewers and drains.*

The council has power to construct and keep in repair culverts, drains, sewers and cesspools and to regulate the use thereof. It may construct sewers under or through any railroad track, right of way or land of any railroad company within the corporate limits, but where no compensation is made to the railroad company the city must restore the track, right of way or land to its former state or in a sufficient manner not to impair its usefulness. (Ib., Sec. 62.)

(g) *Markets and abattoirs.*

The council is authorized to establish markets and market houses and regulate the use thereof. (Ib.)

(h) *Wharves, docks and landings.*

The council may deepen, widen, dock, cover, wall, alter or change the channels of water courses; construct and keep in repair canals and slips for accommodating commerce; erect and keep in repair public and private landing places, wharves and levees; control and regulate the anchorage, moorage and landing of all water craft and their cargoes within the corporate limit; fix the rate of wharfage and dockage; collect wharfage and dockage from all boats, rafts and other craft landing at or using public landings or ways; license, regulate and prohibit wharf boats and other boats used about the harbor or within its jurisdiction; make regulations regarding the use of harbors, the towing of vessels and the opening and passing of bridges; appoint harbor masters and define their duties. (Ill. R. S., Ch. 24, Sec. 62.)

(i) *Public buildings.*

The council has power to provide for the erection and care of all public buildings necessary for the use of the city. (Ib.)

(7) **Public recreation.**

The city may acquire municipal parks, playgrounds, public beaches and bathing places by purchase or otherwise, and may im-

prove, equip, maintain and regulate the same. (Ill. R. S., Ch. 24, Sec. 193ar.)

The council may designate by ordinance the whole or part of not exceeding two streets as a pleasure driveway and may lay out, change and improve such driveway and make all necessary regulations concerning their use; or it may authorize the park commissioners to improve and control streets as boulevards. (Ib. Secs. 435-437; Ch. 105, Sec. 124.)

(Note.—The principal parks of Chicago are under the control of boards created by separate acts. These boards have corporate powers and are entirely (with the exception of Lincoln Park, and it almost entirely) independent of the city. See Part Four, II, 5 (4).—Ed.)

(8) **Education.**

Schools in Chicago are in charge of a board of education appointed by the mayor with the consent of the council. The board has complete control of all matters relating to schools except that it must have the concurrence of the council in order to erect, purchase and repair school buildings; to buy or lease sites for schools; to issue bonds for the purpose of building or furnishing school buildings or purchasing school sites; and in order to borrow money for school purposes on the credit of the city. (Ill. R. S., Ch. 122, Secs. 173, 177, 178. See Part Four, II, 5 (1).)

(9) **Charities and corrections.**

The council has power to establish and erect calaboozes, bridewells and workhouses for the reformation and confinement of vagrants, idle and disorderly persons and persons convicted of violating the city ordinances; to make rules and regulations for the government of such institutions and to appoint the necessary keepers and assistants; to use the county jail for the confinement and punishment of offenders, subject to conditions imposed by law and with the consent of the county board. The city may purchase, own and control not exceeding forty acres of land, either within or without the corporate limits, if within three miles, for the purpose of establishing a house of correction to be used for the confinement and punishment of criminals or persons sentenced or committed thereto under the provisions of the laws relating to cities or any state law or city ordinance. When a house of correction is established outside the city limits the municipal authorities have the same police power over the territory surrounding it as they have within the city. (Ill. R. S., Ch. 24, Secs. 62, 506.)

The council may erect and establish hospitals and medical dispensaries and control and regulate the same. (Ib., Sec. 62.)

Cleveland.**(1) General powers.**

"The powers of the council shall be legislative only, and it shall perform no administrative duties whatever, and it shall neither appoint nor confirm any officer or employee in the city government except those of its own body, except as may be otherwise provided in this act." (Ohio Law for Municipalities, 1902, Sec. 123.)

(2) Power over structure.

The council has power to divide the city into wards. (Ib., Sec. 117.) It determines the number of members of the board of public safety and the board of public service. (Ib., Sec. 117.) The council determines the number of officers, clerks and employees in all departments of the city government except that of public service and fixes salaries and bonds. (Ib., Sec. 277.)

(3) Police power.**(a) General police powers.**

The police powers of the council in Cleveland are all included under the specific heads below.

(b) Police force and public order.

The council is authorized to organize and maintain a police department (Ib., Sec. 7 (14)); to prevent riots, noise and disturbance, indecent and disorderly conduct in assemblages, and to preserve the peace and good order and protect the property of the corporation and its inhabitants (Ib., Sec. 7 (1)); to provide for the punishment of persons disturbing the good order and quiet of the corporation by clamor and noise in the night season, intoxication, etc., or otherwise violating the public peace by indecent and disorderly conduct or by lewd and lascivious behavior; to provide for the punishment of any vagrant, common street beggar, habitual disturber of the peace, known pickpocket, gambler, burglar, thief, watch stuffer, ball game player, person who practices any trick, game or device with intent to swindle, person who abuses his family, and any suspicious person who cannot give a reasonable account of himself. (Ohio Rev. St., Sec. 2108.) They may punish such persons by fine not exceeding \$50.00, or imprisonment not exceeding thirty days, or both, for the first offense; ninety days for the second; six months for the third; one year for the fourth. (Ib., Sec. 2109.)

(c) Public safety.

Fire.—Power is given to organize and maintain a fire department (Law for Municipalities, 1902, Sec. 7 (14)); to regulate the transportation, keeping and sale of gunpowder and other explosives or dangerous combustibles and materials, and to provide for licensed magazines for the same. (Ib., Sec. 7 (11).)

Building regulations.—The council has power to regulate the erection of buildings and the sanitary construction thereof; to regulate the erection of fences, billboards, signs and other structures within the corporate limits; to regulate the repair of, alteration in and addition to buildings; to provide for the construction, erection and placing of elevators, stairways and fire escapes in and upon buildings; to regulate the construction and repairs of wires, poles, plants and all equipment for the generation and application of electricity; to provide for the removal and repair of insecure buildings, billboards, signs and other structures, and to provide for the inspection of all buildings or other structures, and for licensing house movers. (Ib., Sec. 7 (13).)

Machinery.—The only specific power under this head is that to regulate electric apparatus noted in the last paragraph. (Ib., Sec. 7 (13).)

Miscellaneous.—The council has power to compel railroads and bridge companies to light their property within the city limits. (R. S., Sec. 2494.)

(d) *Convenience.*

The council is authorized to license and regulate the use of streets by persons who use vehicles or solicit or transact business thereon; to prevent and punish fast driving or riding of animals or fast driving or propelling of vehicles through the public highways; to regulate the transportation of articles through such highways (Law for Municipalities, 1902, Sec. 7 (9)); to regulate, restrain and prohibit the running at large of animals (Ib., Sec. 7 (10)); to require and regulate the numbering and renumbering of buildings by owners or occupants. (Ib., Sec. 7 (13).)

(e) *Health.*

Power is given to provide for the public health; to secure the inhabitants of the corporation from the evils of contagious, malignant and infectious diseases, and to erect, maintain and regulate pest houses, hospitals and infirmaries (Law for Municipalities, 1902, Sec. 7 (16)); to provide for the collection and disposition of sewage, garbage, ashes, animal and vegetable refuse, dead animals and animal offal, and to establish, maintain and regulate plants for the disposition thereof (Ib., Sec. 7 (25)); to open, construct and keep in repair sewage disposal works, sewers, drains and ditches; to establish, repair and regulate water closets and privies. (Ib., Sec. 7 (19)); to establish and maintain bath houses, drinking fountains, water troughs and public toilet stations (Ib., Sec. 7, (22), as amended by Laws of 1904, p. 508); to provide public cemeteries, and crematories for the burial or incineration of the dead, and to regulate public and private cemeteries and crematories. (Ib., Sec. 7 (17).) The police powers of the city are extended over city

cemeteries outside of the city limits. (Rev. S., 2516.) The council has power to appropriate and hold real estate for hospitals, pest houses, crematories and cemeteries (Sec. 10 (5)); for sewers, drains, ditches, public urinals, bath houses, water closets, and sewage and garbage disposal plants and firms (Ib., Sec. 10 (10)), and to license plumbers, sewer tappers and vault cleaners. (Ib., Sec. 7 (13).) The council is authorized to cause any stagnant waters in the city to be drained off or filled up; and any putrid substances to be removed from any lot; and any obstructions to culverts or covered drains or streams, causing back flow and stagnant waters, to be removed at the expense of the owner of the lot where the nuisance exists. (Ohio R. S., Sec. 2149.)

The council has power to provide for the inspection of milk, bread stuffs, meats, fish, cattle, milch cows, sheep, hogs, goats, poultry, game, vegetables, and all food products (Law for Municipalities, 1902, Sec. 7 (21)); to prevent injury or annoyance from anything dangerous, offensive or unwholesome; to cause any nuisance to be abated; to regulate and compel the consumption of smoke, and to prevent injury and annoyance from the same, and to regulate and prevent the use of steam whistles. (Ib., Sec. 7 (3).)

(f) *Fraud and extortion.*

The council is authorized to regulate auctioneering; to regulate, license, or prohibit the sale of goods or of live domestic animals at public auction in the streets, or other public places within the corporation; to regulate, license or prohibit the selling of goods, merchandise or medicines in the streets (Law for Municipalities, 1902, Sec. 7 (8)); to regulate the use of carts, drays, hackney coaches, omnibuses, automobiles, and every description of carriages kept for hire or livery stable purposes (Ib., Sec. 7 (9); Ohio R. S. Sec. 2670); to establish stands for hackney coaches, cabs or omnibuses, and force the observance and use thereof, and fix the rates and prices for the transportation of persons and property within the city (Ohio R. S., Sec. 2671); to regulate and license pawnbrokers, chattel mortgage and salary loan brokers; public ballrooms, scavengers, intelligence offices, billiard rooms, bowling alleys, livery, sale and boarding stables, dancing or riding academies, race courses, ball grounds, street musicians, second-hand dealers and junk shops (Ib., Sec. 7 (30), as amended by Laws of 1904, p. 509); to license exhibitors of shows or performances of any kind not prohibited by law, hawkers, peddlers, auctioneers of horses or other animals on the highways or public grounds, venders of gunpowder or other explosives, taverns and houses of public entertainment, and hucksters; and in granting such license may exact and receive such sum of money as it may think reasonable; but nothing in this section is to be construed to authorize the city to require a manufacturer or producer to secure a license to sell his own goods (Ohio R. S., 2669); to license transient dealers, persons who tempor-

arily open stores or places for the sale of goods, and all persons who on the street, or traveling from place to place, sell or take orders for goods at retail (Ohio R. S., 2669b); to license bill-posters, advertising sign painters, bill distributors, card tackers, and distributors of advertising matter of any article or compound not manufactured in the city, but not to require such a license from merchants doing business in the city, for advertising their own business. (Ohio R. S., 2669c.)

The council is empowered to regulate the weighing and measuring of hay, wood and coal and other articles exposed for sale, and to provide for the seizure, forfeiture and destruction of weights and measures, implements and appliances for measuring and weighing which are imperfect or liable to indicate false or inaccurate weight or measure, or which do not conform to the standards established by law, and which are known, used or kept to be used for weighing or measuring articles to be purchased or sold. (Law for Municipalities, 1902, Sec. 7 (12).) It may also regulate the business of trafficking in theatrical and similar tickets by others than agents of those issuing the tickets. (Ib., Sec. 7 (7).)

(g) *Public morals.*

Power is given to regulate ale, beer, porter houses and shops, and the sale of intoxicating liquors as a beverage (Ib., Sec. 7 (5)); to regulate taverns and other houses for public entertainment (Ib., Sec. 7 (6)); to prevent gambling (Ib., Sec. 7 (1)); to regulate billiard and pool tables, tenpin alleys, shooting and ball alleys, and to authorize the destruction of instruments or devices used for the purpose of gambling (Ib., Sec. 7 (2)); to suppress and restrain disorderly houses; to provide for the punishment of lewd and lascivious behavior in streets and public places and for the punishment of common prostitutes (Sec. 7 (4)); (see also (b), Police force and public order, *supra.*); to restrain and prohibit the distribution, sale and exposure for sale of books, papers, fixtures and periodicals or advertising matter of an obscene or immoral nature (Ib., Sec. 7 (24)); to regulate, restrain or prohibit theatrical exhibitions and public shows of whatever name or nature for which money or other reward is demanded or received, public school entertainments and lectures excepted. (Ib., Sec. 7 (7).)

(4) **Financial powers.**

(a) *Debt.*

Bonds may not be issued so as to cause the total bonded indebtedness of the city to exceed 4 per cent., nor so as to cause the total debt incurred during the year to exceed 1 per cent. of the assessed value of property in the city, except by the passage of an ordinance for that purpose by a two-thirds vote of all the members elected to the council, approved by two-thirds of the electors voting on the question at an election called for that purpose. (Ohio

R. S., Secs. 3835, 3837, as amended by the Laws of 1902, pp. 319 and 321.) Whenever bonds are issued either by the council alone or by authorization of the people, the council is required to levy in addition to all other taxes already authorized by law an annual tax sufficient to pay the interest and to provide a sinking fund for the redemption of the bonds at maturity. (Ib., Sec. 3836, p. 321.)

The city has power to borrow money and issue certificates of indebtedness therefor, signed as municipal bonds are signed, in anticipation of the general revenue fund in any fiscal year, but no loans may be made in excess of the anticipated receipts at the next semi-annual settlement of tax collections. The term of these certificates must not exceed six months nor the interest 6 per cent. Bonds in anticipation of special assessments may be issued in the same manner. (Law for Municipalities, 1902, Sec. 95.)

The council of any city has power to issue and sell bonds in such amounts and denominations, for such period of time and at such rate of interest, not exceeding 6 per cent., and in such manner as is provided by law for any of the purposes provided for below, whenever the council by an affirmative vote of not less than two-thirds of the members elected shall deem the same necessary:—

1. For procuring real estate for any improvement authorized by law;
2. For extending, improving or securing more complete enjoyment of any building or improvement authorized;
3. For sanitary purposes, and for erecting a crematory, or providing other means of disposing of garbage and refuse;
4. For improving highways leading into the city, etc.;
5. For constructing wharves and landings;
6. For erecting infirmaries;
7. Workhouses, prisons and police stations;
8. Houses of refuge and correction;
9. Market houses, and for providing market places;
10. Public halls and public offices;
11. For erecting or purchasing water works and for supplying water to the city and inhabitants;
12. For erecting or purchasing gas works or electric light works, and for supplying light to the corporation and the inhabitants;
13. For providing and improving grounds for cemeteries;
14. For constructing sewers, sewage disposal works, flushing tunnels, drains, etc.;
15. For establishing free public libraries and reading rooms;
16. For establishing free public baths;
17. For erecting sailors' and soldiers' monuments;
18. For improving a water course or water front;
19. For the payment of obligations arising from emergencies, epidemics, floods or other forces of nature;
20. For purchasing and improving land for parks and boulevards;
21. For erecting or repairing hospitals and pest houses;
22. For repairing or improving streets;
23. For opening, widening or extending streets;
24. For acquiring land for streets, and improving and paying part of the cost of improving them;
25. For constructing levies or embankments and improving any water course passing through the city;
26. For constructing or repairing viaducts, bridges or culverts;

27. For erecting buildings for a fire department, purchasing fire engines and fire boats, constructing water towers, and paying the cost of placing under ground the wires or signal apparatus of the fire department. (Ohio R. S., Sec. 3835, as amended by the Laws of 1902, p. 319.)

Provision is made for the issuance of refunding bonds (Law for Municipalities, 1902, Sec. 96; Ohio R. S., Sec. 2701); deficiency bonds may be issued to meet a deficiency in the revenues of the city, for a term not exceeding fifty years, and at interest not exceeding 6 per cent., whenever, in the opinion of the council, it is necessary, but such bonds must be approved by a two-thirds vote of the council, and a two-thirds popular vote at a regular or special election. (Law for Municipalities, 1902, Sec. 99.)

The city council is required to levy annually a tax, in addition to all other taxes authorized, sufficient to meet the interest on the bonded debt, to provide a sinking fund for its redemption at maturity, and to pay all judgments final against the city, except in condemnation cases; and the tax so raised may be used for no other purpose whatever. (Ib., Sec. 101.) Sinking funds are controlled by the sinking funds trustees, who are the same persons who constitute the tax commission described below. They must certify to the council annually the rate of tax necessary for sinking fund, interest and judgments, which rate the council must include in the tax levy as certified. (Ib., Secs. 102, 108.) All municipal bonds must be first offered at par and accrued interest to the sinking fund commissioners; if refused by them, they must be sold to the highest bidder. (Ib., Sec. 97.)

(b) *Appropriations.*

On or before the first Monday in March the several officers, boards or departments in the city are required to report an itemized estimate to the mayor and auditor stating the amount of money needed for the whole year and for each month. (Law for Municipalities, 1902, Sec. 35.) On or before the first Monday in April the auditor must furnish to the mayor and council, and to each member, the following statements: First, a statement showing the balance to the credit or debit of every fund at the close of the fiscal year last ended. Second, a statement of the monthly expenditures out of each fund during the year and out of all funds. Third, a statement showing the annual expenditures from each fund for the five years preceding. Fourth, a statement showing the monthly average of expenditures from each fund during the last year, and also the monthly average of all of them during the last five years. (Ib., Sec. 36.) The annual budget is made up by the mayor, who must submit it to the council on the first of April each year. The mayor may change any items in the estimates furnished him by the departments, but may not increase the total. The council may reduce any item in the budget submitted by the mayor, but

must not increase the total. (Ib., Sec. 38.) The appropriations must be made at the beginning of each fiscal half year (January 1, July 1) for each of the objects for which the corporation has to provide, out of moneys known to be in the treasury or estimated to come in during the next six months from taxes and all other sources of revenue. All expenditures within the following six months shall be made within these appropriations. Unexpended balances revert to the fund from which they were taken; but the council may by a three-fourths vote transfer moneys from one fund to another, if the object of the first fund has been satisfied. (Ib., Sec. 43.) The council may provide in the semi-annual appropriations for a contingent fund out of which expenses unprovided for in the semi-annual appropriations may be met; but no expenditure may be made out of the contingent fund except by a two-thirds vote of all members elected to the council and with the approval of the mayor. (Ib., Sec. 43.)

(c) *Taxation.*

The council has power to levy and collect taxes upon all the real and personal property within the corporation for the purpose of paying the expenses of the city, constructing all improvements authorized, and exercising all the general and special powers conferred by law. (Law for Municipalities, 1902, Sec. 32.) Taxes levied by the city, exclusive of the levy for county and state purposes, for schools and schoolhouse purposes, for free public libraries and library buildings, for university and observatory purposes, for hospitals and for a sinking fund and interest, must not exceed in any one year ten mills on each dollar of taxable property. (Ib., Sec. 33.) A tax in excess of the ten-mill limit may be levied for any authorized purpose if submitted to popular vote and approved by a two-thirds majority. (Ib., Sec. 34.)

Upon determining the tax rate to be levied in order to meet the expenses as computed in the annual budget, the council must refer the matter to the board of tax commissioners, who must act upon it and return it within ten days. (Ib., Sec. 39.) This board consists of four citizens of the city who must be electors "well known for their intelligence and integrity," appointed by the mayor for a term of four years, one retiring each year. No more than two may belong to one political party. They serve without pay. (Ib., Secs. 46, 47.) The tax commissioners are required to consider the tax levy submitted to them by the council and to return it within ten days with their approval or rejection, in case of rejection giving their reasons. They may approve or reject parts of the levy, and the parts rejected cannot become valid levies unless repassed by a three-fourths vote of all members elected to the council. The tax commissioners have no power to increase the levy. If they approve it, or if they fail to act within ten days, the levy stands as passed by the council. (Ib., Sec. 49.) The council certifies the

tax levy to the county auditor before the first Monday in July. The ordinance making the levy must specify directly every purpose for which the levy is made, and the percentage thereof, and if the county auditor finds that it exceeds the limit set by law, he must return the levy to the council to be reduced, and the council must then revise the levy within ten days, so as to bring it within the law. (Ib., Sec. 40.)

The council may assess upon abutting, adjacent and contiguous or other specially benefited lots or lands any part of the entire cost of the improvement of any street, alley or public road or place, by paving, repaving, repairing, constructing sidewalks, sewers, drains or water courses, and any part of the cost of lighting, sprinkling, sweeping, cleaning or planting shade trees, or the cost of constructing and improving docks, wharves and piers, by either of the following methods: First, in proportion to the taxable value of the property assessed; second, in proportion to benefits; third, according to foot frontage of abutting property. (Law for Municipalities, 1902, Sec. 50, as amended by Laws of 1904, p. 98.)

When an improvement is to be made by special assessment, the council must pass a resolution to that effect by a three-fourths vote of all the members elected; and must file the resolution, together with specifications, with the department of public service, where it is open to public inspection. After two weeks the council may pass an ordinance, by a three-fourths vote, determining the general nature of the improvement, approving the specifications, and designating which of the three methods of assessment shall be pursued, and the details as to manner of payment, etc. (Law for Municipalities, 1902, Sec. 51.) A special assessment upon any property must not exceed the special benefits conferred by the improvement, and no more than 33 per cent. of the tax value shall be assessed against any property during a period of five years. The city is required to pay such part of the cost of any improvement made by special assessment as the council may deem just, but not less than one-fiftieth of the total cost beside the cost of street intersections. When property has once been assessed for improvement, it may not again be assessed for more than one-half the cost of repaving or repairing, unless the grade is changed. The city may sell bonds to pay for its share of the expense and levy a tax in addition to all other taxes authorized by law for interest and sinking fund on them. (Ib., Sec. 53.) After the passage of the ordinance described above, a time is allowed for the filing of claims for damages (Ib., Sec. 54), after which the council may determine by ordinance whether it will proceed with the improvement; the final ordinance must set forth specifically the lots and lands to be assessed. (Ib., Sec. 55.)

If the owners of a majority in foot-frontage of property on a street petition in writing for an improvement to be made by a spe-

cial assessment, the council may pass an ordinance for the improvement by a simple majority instead of by a three-fourths vote, as otherwise required. (Ib., Sec. 61.) If a petition signed by three-fourths, in interest, of the owners of the property asking for an improvement be presented to the council, the entire cost of the improvement may be assessed on the property, regardless of the proportion which the assessment may bear to the value of the property of those signing the petition, and may be apportioned in the manner specified in the petition; or, if no manner be so specified, then in the manner determined by the council. The interest on bonds issued by the city to pay for such an improvement, as well as the costs of the proceedings, must be assessed on the property, but the property of persons who did not sign the petition may not be assessed more than 33 per cent. of the value of the lot. (Ib., Sec. 62.)

Assessments for public improvements chargeable against public property may be authorized by the council to be entered on the tax lists and collected as other taxes. (Ib. Sec. 63.) Similar provision is made for the cost of sidewalks in front of public property. (Ib., Sec. 76.) Expenses entailed by change of grade after a street has been once improved by special assessment cannot be paid by special assessment unless the change is petitioned for by a majority of owners. (Ib., Sec. 64.)

(6) Streets and public ways.

The council has power to lay off, establish, plat, grade, open, widen, narrow, straighten, extend, improve, keep in order and repair, light, clean and sprinkle streets, alleys, public grounds, places and buildings, wharves, landings, docks, bridges and market places in the city, including any portion of any turnpike surrendered to or condemned by the corporation; to prevent injury to the highways from overloaded vehicles; to regulate the planting, trimming, and preservation of shade trees in public places and grounds (Law for Municipalities, 1902, Sec. 7 (18)); to construct, open, enlarge, deepen, straighten or extend any canal or water course located in whole or in part within the city, or adjacent to it. (Ib., Sec. 7 (19).) The council has the care, supervision and control of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts. It is its duty to cause them to be kept open and in repair and free from nuisance. (Ib., Sec. 28.) The city is authorized to appropriate and hold real estate for any of the purposes mentioned above. (Ib., Sec. 10.)

The directors of public service may divide the city into districts for the purposes of street cleaning, sprinkling, or the planting and care of shade trees, and may appoint two abutting owners to act as commissioners for one year. The commissioners must file with the directors of public safety annually an estimate of the

amount of money necessary for these purposes in their respective districts for the next year. (Laws of 1904, p. 163, Sec. 165.) The council may, upon recommendation of the directors of public service, pass an ordinance levying the amount necessary upon property owners benefited in any one of the three methods of special assessment noticed above. (Ib., Secs. 66, 67.)

(7) **Public utilities and public services.**

(a) *Franchises in general.*

All provisions as to the power of the council over franchises are included under the special heads enumerated below.

(b) *Transportation.*

The right to construct or extend a street railway can be granted only by the council of the city, by ordinances. After a grant or a renewal of a grant has been made, the council is forbidden to release the grantee from any obligations or liabilities imposed by the terms of the grant during the period for which it has been made. Permission may not be given to anyone to use the tracks or structure of another company for more than one-eighth of its whole length. No company existing outside the city can extend its lines into the city except as a new grant, subject to the provisions described below. (Law for Municipalities, 1902, Sec. 29.) No corporation or individual may construct a street railway until application for permission has been made in writing to the council and the council has granted the permission, and prescribed the terms and conditions upon which and the manner in which the road shall be constructed and operated, and the streets and alleys which shall be used for the purpose; but the council may renew any such grant at its expiration, upon such condition as may be considered conducive to the public interest. (Ohio R. S., Sec. 2501.) But no ordinance or resolution to establish or define a street railroad route shall be passed, and no action inviting proposals to construct and operate such a railroad shall be taken by the council, and no ordinance for the purpose specified in the action just noted shall be passed until notice has been published in one or more daily papers once weekly for three weeks, nor except to the company which agrees to carry passengers at the lowest rate of fare, and which has obtained the written consent of the owners of a majority of frontage on each street on the proposed route, and no grant can be made for a longer period than twenty-five years. (Law for Municipalities, 1902, Sec. 30.) The council has power to require the employment of conductors on all street cars within the city (Ib., Sec. 7 (28)); and to regulate the speed of street railway cars (Ib., Sec. 7 (9).)

(c) *Gas and electric light.*

A company organized for the purpose of supplying gas for lighting the streets and public and private buildings of a city may

lay conductors for conducting gas through the streets, lands, alleys and squares in the city with the consent of the municipal authorities, and under such reasonable regulations as they may prescribe. (Ohio R. S., Secs. 3550, 3471 (3).) The city authorities may contract with a gas company for lighting the streets, etc.; "but no such company shall go into operation in any city or village where such a corporation has been already formed, or is hereafter formed, until after the question of authorizing such operation has been submitted to the qualified electors of such city or village and authorized by ordinance." (Ib., 3551.) Provision is made for the testing of meters and photometric examination of gas by officers of the company in accordance with standards kept at the state university. (Ib., Secs. 3555, 3561.) The council is authorized to appoint a gas inspector whose duties are to inspect gas and meters to make photometric tests and to certify the correctness of bills; it may also provide for the inspection and testing of electric meters. (Ib., Sec. 2484.)

The council of any city in which electric lighting companies, natural or artificial gas companies may be established, or into which their wires or mains may be conducted, are empowered to regulate from time to time the price which those companies may charge for electric light or for gas for lighting or fuel purposes, furnished by such companies to citizens, public grounds and buildings, streets, lanes, alleys, avenues, wharves and landing places, and to regulate and fix the price which such companies shall charge for the rent of their meters. (Ib., Sec. 2478.) When the council has fixed the minimum charge for a period not exceeding ten years, and the company has assented by written acceptance, the council is forbidden to reduce the rate within the term agreed upon. (Ib., Sec. 2479, as amended by Laws of 1904, p. 263.) If the gas company refuse or fail, for six months after being ordered by the council, to lay pipes, light any street, etc., the council is authorized to lay pipes and erect gas works to light streets not already lighted, and the gas company so refusing is forbidden to occupy any streets not already occupied, but the council may at any time permit the company to occupy new streets notwithstanding. (Ib., Secs. 2480, 2481.) If any company neglects to furnish gas in accordance with the rates fixed by the council, the rights of the company are forfeited, and the council may erect works or authorize others to do so. (Ib., Sec. 2482.)

The council is forbidden to make any ordinance, contract or agreement which grants an exclusive privilege to use the streets for the purpose of conveying gas, or which deprives the council of the right to designate the kind of meters to be used and to provide for inspecting and regulating the same; or which does not specify the exact quality of gas to be furnished, and reserve to the council the right to enforce compliance. It is forbidden also to make any such agreement which shall not secure to the council

the right to purchase the works and appurtenances at any time within the existence of the contract or agreement. (Ohio R. S., Sec. 2485.) The council of any city has power, whenever it may be deemed expedient and for the public good, to erect gas works or electrical works at the expense of the corporation, or to purchase any gas or electrical works already erected. (Ib., Sec. 2486.) No electric light and power company or automatic package carrier company shall place, string, construct or maintain any line or appliance for conducting electricity for lighting heating or power purposes through any street, alley, etc., without the consent of the municipality; and this inhibition extends to all levels above and below the surface of the street. (Ib., Sec. 3471, a.)

The city has power to appropriate or acquire real estate for natural or artificial gas and electric lighting, heating and power plants, and for supplying the products thereof. (Law for Municipalities, 1902, Sec. 10 (11).) It has power to establish and maintain municipal lighting, power and heating plants, and to establish, maintain and operate natural gas plants, and to furnish the municipality and the inhabitants with natural gas for heating, lighting and power purposes, and to acquire by purchase, lease or otherwise the necessary lands for such purposes within and without the municipality. (Ib., Sec. 7 (15).)

(d) *Telephones and telegraphs.*

Any telephone or telegraph company may use a street alley, public way, etc., within the limits of a city; but the mode of such use must be such as shall be agreed upon between the municipal authorities and the company; and if they cannot agree, or the municipal authorities unreasonably delay to enter into any agreement, the probate court of the county in a proceeding instituted for the purpose is required to direct in what mode the telegraph or telephone line shall be constructed along the street, so as not to incommode the public in its use; but nothing in this section is to be construed to authorize any municipal corporation to demand or receive any compensation for the use of a street, alley, etc., beyond what may be necessary to restore the pavement. (Ohio R. S., Secs. 3461, 3471.) Any telegraph or telephone company in any city may construct and maintain underground conduits for their wires, when the consent of the city has been obtained; and it is declared unlawful for any such company to erect poles in any part of the city where subways have been constructed, except for distributing wires from the subways. The consent required may be given by the board of public improvements. (Ib., Sec. 3471, 1, 2.)

(e) *Water.*

The council has power to provide for a supply of water, by the construction of wells, pumps, cisterns, aqueducts, water pipes, and waterworks, and for the protection thereof; and to prevent the pollution thereof, and to apply moneys received as charges for water to the maintenance, construction, and enlargement of the works, and for the

extinguishment of any indebtedness created for the works. (Law for Municipalities, 1902, Sec. 7 (15)), and to appropriate and acquire real estate for water works. (Ib., Sec. 10 (11).) If there is any surplus after paying the expenses of the water works, it may be applied to the repair or extension of the works or reservoirs, to the payment of the interest on any loan made for their construction or the creation of a sinking fund. Any taxes levied by the council for waterworks purposes must be applied to the creation of a sinking fund for waterworks indebtedness and to no other purpose. (Ohio R. S., Sec. 2412.) The managers of the waterworks are required to report monthly to the council. (Ib., Sec. 2413.) The council is authorized to appoint a committee for the investigation of all books and papers, together with all matters pertaining to the management of the waterworks, at least once a year, and oftener, if necessary by reason of any neglect of duty or malfeasance on the part of any officer of the works; and any officer found by the committee to be so offending may be removed by the council. (Ib., Sec. 2416.) No charge may be made for water furnished for the extinguishing of fires nor for market houses, schools, public buildings, or charitable institutions. (Ib., Sec. 2417.)

Jurisdiction is given to the council to prevent or punish the pollution of the water supply for a distance of ten miles outside the corporate limits. (Ib., Sec. 2433.)

(f) *Sewers and drains.*

The council has power to maintain sewage disposal works, sewers, drains and ditches. (Law for Municipalities, 1902, Sec. 7 (19)); to appropriate and acquire property for the purpose. (Ib., Sec. 10 (10).) Sewers may be paid for by special assessment. (Ib., Sec. 50.) It is the duty of the city engineer, or some person employed by the city, to devise and form a plan for the sewerage of the whole city, or such part as may be designated by the council; such plans must be devised with regard to the present and prospective needs and interests of the whole city, and must be reported to the council for confirmation. (Ib., Sec. 77.) The plan must make provision for the division of the city into sewer districts as far as possible independent of each other. (Ib., Sec. 78): it must be filed for public examination, and objections may be presented to the council. (Ib., Secs. 80, 81.) The council may amend such plan at any time by the addition of intercepting sewers, etc., making new sewer districts or sub-dividing old ones, and assess the costs upon property according to benefit. (Ib., Sec. 82.) The council may, if it think expedient, provide for the construction of main and branch sewers without dividing the city into sewer districts or adopting a general plan, and may assess the cost upon lots to be designated by ordinance, or pay it out of the sewer fund, or out of the municipal treasury, as the council may determine. (Ib., Sec. 88.) The council is forbidden to make a greater assessment against any property for the construction of a main sewer than would be sufficient to pay for sewers

large enough to drain the lands to be charged. (Ib., Sec. 53.) The council may borrow money at interest not more than 6 per cent to pay for main sewers and branches (Ib., Sec. 91); maintain sewer pumping works. (Ib., Sec. 92), and it may purchase land outside the city to be used as a sewage farm for the disposition of sewage under rules prescribed by the council and approved by the state board of health. (Ib., Sec. 93.)

(g) *Markets and abattoirs.*

The council has power to establish, improve, and keep in order market places, (Ib., Sec. 7 (18)); to establish, erect and maintain market houses; with the consent of abutting owners, to establish, protect and regulate market places upon any street, square or public grounds, (Ib., Sec. 7, (21), as amended by Laws of 1904, p. 508); and to appropriate and acquire property for market places. (Ib., Sec. 10 (2).)

(h) *Wharves, docks and landings.*

The council is empowered to establish and improve wharves, landings and docks; to regulate public landings, public wharves, public docks, piers, and basins, and to fix the rates of landing, wharfage, dockage, and the use of same (Ib., Sec. 7 (18)); and to appropriate and acquire property for levees, wharves and landings. (Ib., Sec. 10 (6).)

(i) *Miscellaneous.*

The council is given power to use, or by ordinance grant, for a period not exceeding 25 years, the use of the streets, etc., for pipes and fixtures to be used for supplying steam or hot water for heat and power; and to use or grant the use of the streets for not longer than 25 years, for inclined movable or rolling roads, for conveying freight, vehicles, animals, etc., upon such terms as the council may deem proper; provided that in all such grants the council must reserve the right to regulate, at intervals of not less than 5 years, the prices to be charged for heat or power, or for moving freight, etc.; and provided that the grantee for an inclined movable road must secure the written consent of two-thirds of the property owners on the proposed route. (Ib., Sec. 7 (18), as amended by Laws of 1904, p. 507.)

(8) **Public recreation.**

The council may hold and improve public grounds, parks, park entrances, and boulevards, and protect and preserve the same, (Ib., Sec. 7 (29).) It may establish, maintain and regulate public baths and bathhouses and free public band concerts (Ib., Sec. 7 (22)), and it may acquire property for parks, park entrances, boulevards and children's play grounds, Ib., Sec. 10 (2).)

(9) **Education.**

Schools.—The council has no control over schools. School taxes are levied by the board of education directly without the intervention of

the council. (Ohio Laws of 1904, p. 349, Sec. 3958.) The maximum limit of school taxes is twelve mills on the dollar, except when authorized by popular vote. (Ib., Sec. 3959.)

Libraries.—The council is authorized to levy a tax of not more than one mill on the dollar to compensate a private association for maintaining a free public library. (Law for Municipalities, 1902, Sec. 218.) It has power to establish, maintain and regulate free libraries and reading rooms; to purchase books, papers, etc., and to receive donations for the purpose in trust or otherwise, and to provide for the rent and compensation for the use of any existing free public libraries, established and managed by private corporation. (Ib., Sec. 7 (22).) It may acquire and hold real estate for libraries, university sites, and grounds. (Ib., Sec. 10 (8).)

Art gallery.—The council may levy a tax of not more than one-fourth of one mill to compensate a private corporation for maintaining a free art gallery. (Ohio Laws of 1906, p. 146.)

(10) Charities and corrections.

The council is authorized to provide for the rent and compensation for the use of any existing free public hospital, managed by a private corporation or association. (Law for Municipalities, 1902, Sec. 7 (23)); to acquire and hold property for hospitals and pest houses, (Ib., Sec. 10 (5)), and to levy a tax of not more than one mill to compensate a corporation maintaining a free public hospital for the benefit of the inhabitants of the city. (Ib., Sec. 219.)

It has power to establish, maintain and regulate jails, morgues, houses of refuge and correction, workhouses, station houses, prisons, and farm schools (Ib., Sec. 7 (20)); and it may acquire and hold property for these purposes (Ib., Sec. 10 (4, 5).)

Denver.

(1) General powers.

All legislative power conferred by the constitution upon the City and County of Denver, except as otherwise provided, is vested in the council, consisting of a board of supervisors and a board of aldermen. (Charter, Sec. 4.) The council has power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent, and summarily abate nuisances; to preserve and enforce the good government, general welfare, order and security of the city and county and inhabitants thereof; to enforce ordinances and regulations by fines not exceeding \$300, or imprisonment not exceeding 90 days, or both fine and imprisonment for each offense.

The enumeration of particular powers of the council is declared not to impair any general grant of power given in the Charter or to limit any such grant to powers of the same class or classes as those enumerated. (Ib., Sec. 17).

Besides their duties specified in the charter all officers, boards and commissioners must perform such duties as may be required by ordinance. (Ib., Sec. 155).

The general legislative power of the council is somewhat modified by the right of initiative and referendum secured to the people by the charter. (See Pt. Two, IV. *supra* and Denver Charter, Secs. 20-23.)

(2) **Power over structure.**

The Charter of Denver confers no power on the city council to determine or change the structure of the city government. The executive power is vested in the departments and officers provided for by the charter (Sec. 24) with no mention of any authority on the part of the council to create additional officers or boards. This absence of power is probably due to the fact that under its home rule charter Denver can quickly and easily provide for any change in the governmental structure which may be desired without recourse to the legislature for additional authority.

(3) **Police powers.**

(a) *General police powers.*

The council may enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent and summarily abate nuisances and to preserve and enforce the good government, general welfare, order and security of the city and county and of the inhabitants thereof. (Charter, Sec. 17.)

(b) *Police force and public order.*

See (a) "General police powers," above. The general organization of the police force is provided for by the charter and its more important duties are also specified therein. It is the duty of the police department to enforce all laws, ordinances and regulations for the preservation of good order and the public welfare that the council may enact. (Charter, Sec. 65.)

The police department is under the general control of the fire and police board, of which the commissioner of police is one of the three members. (Ib., Secs. 65-69.)

(c) *Public safety.*

Fire.—The organization of the fire department is fixed by the charter. It is under the control of the fire and police board of which the fire commissioner is a member. (Charter, Secs. 64, 66-68.) No special powers of legislation for the prevention or extinguishment of fires is given by the charter. Such power, however, would be implied in the grant of general power of police legislation stated above under (a).

Building Regulations.—While power is not explicitly conferred on the council to make building regulations, it is clearly implied in the general grant of police ordinance power already mentioned. Its ex-

istence is also assumed in the section of the charter establishing the office of building inspector which provides that the inspector shall have power to inspect all buildings "to ascertain if the ordinances in regard to buildings are being complied with." The council also has power, unless otherwise provided in the charter, to prescribe the powers, duties and liabilities of the officers having charge of the various branches of building inspection. In addition to the building inspector, the charter provides for inspectors of electric wiring and plumbing. (Charter, Sec. 63.)

Machinery.—The charter establishes the office of boiler and elevator inspector and authorizes the council to prescribe his powers, and duties, except when otherwise provided in the charter. (Ib.) Aside from this the power of the council over dangerous machinery would be derived from its general authority to pass police ordinances.

Miscellaneous.—The council may require railroad companies to construct bridges, approaches, tunnels, or other conveniences at public crossings and also viaducts and their approaches along their tracks where the same cross or extend along public highways or streets (Ib., Sec. 297).

(d) *Convenience.*

In this respect, also, the power of the council is to be chiefly found in its general authority to pass police ordinances already mentioned. As to street regulations the immediate control is in the hands of the board of public works appointed by the mayor. The board has power to issue permits for the erection of lamp posts and other lighting apparatus, signs, awnings, and other structures in the streets and alleys of the city and to cause the same to be removed therefrom, but the council may by ordinance regulate the granting of all such permits. (Charter, Sec. 84.)

The board of public works also have power to adopt rules for the regulation and government of boulevards. The council, upon recommendation of the board may by ordinance provide for the punishment of any violation of such rules. (Ib., Sec. 85.)

The park commissioner has similar power to make rules and regulations concerning the use of public parks and the selling of goods on the streets within 300 feet of any park entrance and the council may by ordinance provide for the enforcement of the rules and orders of the commission. (Charter, Sec. 99.)

(e) *Health.*

The council may enact and provide for the enforcement of all ordinances necessary to protect health and it may declare, prevent and summarily abate nuisances (Charter, Sec. 17). The department of health is created by the charter and the general duties of the health commissioner are quite fully provided for therein. (Ib., Secs. 106-110.) But the council is required to provide for the maintenance, enlarge-

ment and improvement of the Steele Memorial Hospital for contagious diseases of children and to provide for the care and accommodation of persons with contagious diseases who are required to be removed thereto (Ib., Sec. 111). The other powers to establish health regulations usually conferred upon councils by city charters, e. g. the various kinds of food inspection, are not specifically mentioned in the Denver Charter.

(f) *Fraud and extortion.*

There are no specific powers granted to the council under this head.

(g) *Public morals.*

The council may provide by ordinance for the licensing, taxing and regulating of liquor saloons, dram shops and tippling houses, and the selling or giving away of any intoxicating liquors within the limits of the city and county, by any person or corporation. But no license for the sale of intoxicating liquors in any of the places above named can be granted except on the petition of the owners of a majority of the real estate within the frontage of the block in which the liquors are to be sold. The fee for liquor licenses is fixed by the charter at \$600 a year and the charter also provides that licenses cannot be granted for less than 6 months (Charter, Sec. 75). The council may not authorize liquor saloons to be kept open on Sunday, nor between the hours of 12 p. m. and 5 a. m. Licenses may not be issued for the sale of intoxicating liquors at any place within 500 feet of any public park, or property used for school purposes (Ib., Sec. 77). Wine-rooms, in connection with saloons, in which females can be supplied with liquor of any kind, are prohibited. (Ib., Sec. 78.)

No specific power is given the council to legislate in regard to other matters which might be included under public morals, e. g. gambling, vice, dance halls, etc. The right to make such regulations, however, is included in the general grant of police legislation cited above under "(a) General police powers."

(4) **Financial powers.**

(a) *Debt.*

Loans cannot be made or bonds issued for any purpose unless authorized by ordinance. Ordinances authorizing loans or the issue of bonds are irrevocable until the indebtedness provided for has been fully paid. Loans cannot be created or bonds issued until the question of incurring the debt has been submitted to a vote of the qualified electors who have in the preceding year paid a property tax in the city, and has been approved by a majority of those voting on the question. (Charter, Sec. 250.)

The city and county cannot become indebted to an amount which, including existing indebtedness, would exceed 3 per cent. of the as-

sessed valuation of the taxable property. Bonds issued for the acquisition of water, light, or other public utilities, works or ways, from which the city and county derive a revenue, are not included in the estimate of indebtedness. (Ib.)

(b) *Appropriations.*

On or before the first Monday of November, in each year, the heads of the various departments, officers and commissioners of the city and county must furnish the mayor an estimate in writing of the probable expenses to be incurred in their several departments for the ensuing fiscal year. These statements must specify the probable expenditures in detail and include a statement of the salaries of all subordinates in the various departments. The auditor at the same time is required to certify to the mayor the amount to be raised by taxation in order to pay the interest on the bonded indebtedness and to provide for the sinking fund. From these estimates the mayor makes out a detailed statement of the money necessary to defray the expenses of the city and county government and of each department for the ensuing fiscal year.

The mayor's statement, as above described, must be presented to the council on or before the first Monday in December in each year. The two houses of the council meet in joint session annually between the first and third Mondays in December and taking the mayor's statement as a basis proceed by majority vote to make a budget. The council cannot change any item in the mayor's estimate or the total thereof except by a vote of two-thirds of each house. After the final estimate is made in accordance with these provisions, it is signed by the mayor and clerk and filed in the auditor's office. The several sums must then be apportioned by ordinance for the purposes and departments named. The total amount appropriated cannot exceed 90 per cent. of the amount of money estimated to be received from taxation and other sources of revenue during the year. (Charter, Secs. 216-219.)

The amount required to pay the interest on the bonded indebtedness and for additions to the sinking fund must always be provided for out of the tax on property. (Ib., Sec. 220.)

(c) *Taxation.*

The fiscal year for the city and county of Denver commences on the first day of January and ends on the last day of December of each year. (Charter, Sec. 211.)

The council, after deducting the amount collectable from other sources, levies upon all property, real and personal, within the city and county the amount of taxes necessary to provide for the payment of all properly authorized demands upon the treasury during the ensuing fiscal year. The council also levies the state and school district taxes. The amount of taxes levied in any year cannot exceed 15 mills on the dollar of the total assessed valuation of the taxable property within the city and county. However, taxes levied for the payment of the

principal and interest of the bonded debt ; for the purpose of the sinking fund ; for the indebtedness of any town or city consolidated with or annexed to the city and county of Denver or for special assessments for local improvements are excepted from this limitation. (Charter, Sec. 212.)

The council has power to determine what licenses shall be granted and upon whom and what licenses shall be imposed. (Ib., Sec. 71.)

Local improvements may be made by assessing the cost wholly or in part upon property especially benefited. Such improvements cannot be made unless authorized by the council by ordinance, but any such ordinance must be in the form recommended by the board of public works and cannot be amended by the council.

(5) Streets and public ways.

As a general proposition it may be said that aside from its authority to make police regulations and its control over appropriations, the Denver council has little power over the streets. The board of public works, appointed by the mayor, and of which the commissioner of highways is one of the three members, has exclusive management and control of the construction, repair, maintenance, and cleaning of all streets, alleys, and other highways and of all sidewalks, bridges, viaducts, tunnels and similar structures (Charter, Sec. 83). Subject to approval by ordinance the board has exclusive power to lay out and open, locate, establish or change the grades of streets. (Ib., Sec. 84.) The council may pass ordinances to provide for the punishment of persons violating the rules made by the board of public works for the regulation and government of boulevards. (Ib., Sec. 85.)

(6) Public utilities and public services,

(a) *Franchises in general.*

No franchise relating to any street, alley, or public place of the city and county of Denver can be granted except upon the vote of the qualified tax-paying electors. Before the question of granting a franchise is submitted to a vote the applicant must deposit with the treasurer a sufficient sum of money to cover the expense of the submission. An ordinance submitting a franchise to a vote of the tax-payers cannot be put upon its final passage in either house of the city council within 30 days of its introduction or initiation nor until the bill for the franchise has been published not less than five consecutive times in some daily newspaper published in the city and county.

Franchises must be limited to 20 years and must plainly specify the streets, alleys or avenues to which they apply. No Franchise can be granted in general terms nor to apply to the city and county generally. Exclusive franchises cannot be granted.

The council may grant a license or permit in or to any street alley or public place provided such license or permit is made revocable

at any time. The right to revoke must be reserved in all licenses or permits granted by the council.

All power to regulate the charges for the service rendered by any public service corporation is reserved to the people. The right is exercised by the people in the manner provided for initiating an ordinance. (Charter, Secs. 265-269.)

For the part of the council in the acquisition of public utilities see Part Two, III., (b). When a public utility, work or way is acquired by the city, the council has power to fix the rates for the service rendered, but until the property acquired has been fully paid for, or the payment provided for by the sinking fund, the rates fixed by the council must be sufficient to pay annually the cost of maintenance and operation plus the accruing interest on outstanding bonds and the principal of the bonds as they fall due. If the rates charged in any year prove insufficient for these purposes they must be increased for the succeeding year sufficiently to pay the deficiency. After all bonds and interest have been paid the rates fixed by the council must never be less than sufficient to pay all the expenses of maintenance and operation. (Charter, Sec. 263.)

(b) *Transportation.*

There are no provisions in the charter applying specifically to transportation. The question is covered by the section above on "Franchises and public services in general."

(c) *Gas and electric light.*

The charter has no specific provisions on this point. See (a) "Franchises and public services in general," above.

The control of the streets in the matter of permits for the erection of posts, poles and lighting apparatus and for excavations therein or the removal of materials therefrom is in the hands of the board of public works. However, the council may by ordinance regulate the granting of permits for any of the purposes named. (Charter, Sec. 84.)

(d) *Telephones and telegraphs.*

There are no specific provisions in the charter relating to telephones and telegraphs. See (a) "Franchises and public services in general," and the provisions above regarding the use of the streets under (c) "Gas and electric light."

(e) *Water.*

Denver is supplied with water by a private company. Aside from the general provisions regarding franchise grants and the use of the streets already cited, there is nothing in the charter relative to the council's power to legislate regarding water. See (a) and (c) above.

(f) *Sewers and drains.*

The general management and control of sewers is placed by the charter in the hands of the board of public works. The board may

order the construction of the various kinds of sewers enumerated in the charter, but such orders must be approved by ordinance passed by a two-thirds vote of the council. Aside from this and its power to withhold appropriations, the council has little power to legislate concerning sewers. It has absolutely no power of initiation in such matters. (Charter, Secs. 282-292.)

(g) *Markets and abattoirs.*

The charter provides for a market master to be appointed by the mayor. The council having power to prescribe the duties of officers by ordinance would thus have a certain power to legislate concerning markets. (Charter. Sec. 63.)

(h) *Public buildings.*

The care, repair and maintenance of all public buildings belonging to the city and the construction of all buildings for the city, except those for fire, police and hospital purposes, is in charge of the board of public works. The power of the council in this particular is confined almost exclusively to its control over appropriations. (Charter, Sec. 83.)

(7) **Public recreation.**

Parks.—The power of the Denver council to legislate concerning parks is even more meager than its power regarding public buildings, sewers, water, etc., already mentioned. The parks are controlled and managed by a board of park commissioners appointed by the mayor. The commission makes all rules and regulations for the government of the parks, the power of the council extending merely to the enactment of ordinances fixing penalties for the violation of the rules established by the commission. The commission, with the approval of the mayor, is empowered to condemn lands for parks without the passage of any ordinance by the council. It may issue bonds in order to pay for any lands condemned for park purposes, such bonds to be paid by assessment upon all real estate in the park district concerned. However, such assessments must be levied by ordinance.

The council is required to assess and collect annually for park purposes one and one-third mills upon each dollar of taxable property within the city and county. (Charter, Secs. 92-105, 323-329.)

(8) **Education.**

(a) *Schools*

The council has power, by ordinance not in conflict with the general laws of the state, to prescribe the duties of the superintendent of schools. (Charter, Sec. 45.)

(b) *Libraries.*

The charter establishes a library commission, to be appointed by the mayor and having general control of all matters relating to the public library. The legislative power of the council as to libraries is

practically confined to its control over appropriations and its right to prescribe the duties of officers where not otherwise fixed by the charter. The council is required to appropriate not less than \$30,000 annually for the maintenance of the library. (Charter, Secs. 125-130.)

(c) *Art.*

The charter also provides for the establishment of an art commission, to be appointed by the mayor. This commission has control of all matters relating to art which concern the city and county and advises the mayor and council in relation thereto. No contract or order for the execution of a work of art for the city can be made until submitted to, and approved by the commission. (Charter, Secs. 121-124.) See *infra.*, Pt. Four, II., 5, (3).

(9) **Charities and Corrections.**

A commission of charity and correction is established by the charter. (See Pt. Four, II., 3.) It has charge of all the charitable work done by the city and county and makes rules for the government of the charitable and correctional institutions. The council has power to impose such other duties upon the commission as are not inconsistent with the general laws and the provisions of the charter. However the duties of the commission are prescribed in considerable detail by the charter, leaving the council a very limited sphere of action. The council may make appropriations to private charitable organizations. (Charter, Secs. 106-112.)

Detroit.

(1) **General powers.**

"The inhabitants of the city of Detroit. . . . shall have, exercise and enjoy such powers of a local legislative and administrative character as are conferred by this act, or by the general laws of the State of Michigan, and shall also receive and enjoy such implied and incidental powers and rights as are of right possessed by municipal corporations in this State." (Charter, Sec. 1.)

The legislative department of the city government is forbidden to exercise powers properly belonging to the administrative department, except in cases expressly provided. (Ib., Sec. 2.)

The council may provide forfeitures, not exceeding \$1,000; fines, not exceeding \$500; and imprisonment, not exceeding two years, for the violation of ordinances. (Ib., Sec. 190.)

(2) **Power over structure.**

The council has power to provide for the election and appointment of all officers not otherwise provided for. (Ib. Sec. 166.)

(3) **Police power.**

(a) *General police powers.*

The council may provide for the general peace, order and good government of the city. (Ib., Sec. 171.)

(b) *Police force and public order.*

The council may provide for the prohibition and prevention of any riot, rout, disorderly noise, disturbance of assemblage; and provide for the peace, order and good government of the city, (Ib., Sec. 172); preserve quiet and order on the docks and in the streets, and at the arrival and departure of trains and boats, (Ib., Sec. 172); punish, restrain and prevent vagrants, mendicants, street beggars, drunken and disorderly persons. (Ib., Sec. 183.)

(c) *Public safety.*

Fire.—The council has power to establish fire limits, and enlarge them; to prohibit lumber-yards; to prevent the construction of wooden buildings on any streets or in any district (Ib., Sec. 170). On the recommendation of the fire commission or of the property owners interested, the council may extend the fire limits over all thickly settled parts of the city, or such other parts as it may be deemed necessary to prevent the spread of fires. (Ib., Sec. 435.)

It may regulate the keeping of powder and other combustibles or dangerous articles; regulate lights in stables and other extra hazardous places; regulate or prohibit, within limits, powder factories, places for the manufacture or keeping of turpentine, camphene and easily inflammable or explosive materials. All such places, and other establishment usually regarded as extra-hazardous in respect to fire, are subject to such regulation, in relation to construction and management as the council may make, for the protection of property from fire. (Ib., Sec. 180.)

The council may authorize officers of the city to keep idle or suspicious persons away from fires, and compel all officers of the city, and other persons to aid in extinguishing fires and protecting property at fires. (Ib., Sec. 181.)

Building Regulations.—The council is authorized to prevent the construction of wooden buildings; to regulate the construction of stone or brick buildings, partition fences, parapet walls, thickness of walls; the construction of chimneys, hearths, fire-places, fire-arches, ovens, and any apparatus dangerous in causing fires; to regulate the deposit of ashes; and provide officers to inspect buildings and enforce safe conditions. (Ib., Sec. 181.)

Machinery.—The council has power to provide for the inspection of steam boilers for machinery or heating, and to require engineers using steam boilers to be licensed. (Ib., Sec. 170.)

Miscellaneous.—The council may regulate and prohibit the keeping of dogs. (Ib., Sec. 173.)

(d) *Convenience.*

The council has power to prevent the incumbering of streets, crosswalks, sidewalks, etc., to prevent the use of canvas signs on ve-

hicles; to regulate awnings; to compel the clearing of snow, etc., from sidewalks; and if it is not removed by the owner, the city may remove it and levy the cost as a special assessment; it may regulate the manner in which the streets and public places shall be used; it may prohibit fast driving; prevent the circulating and distributing of circulars, handbills, etc., in a manner likely to frighten horses; prohibit the flying of kites; compel the fastening of horses; prevent driving on sidewalks (Ib., Sec. 170); regulate the ringing of bells and blowing of whistles (Ib., Sec. 171); regulate the driving or running at large of cattle, etc., and provide pounds (Ib., Sec. 173.)

(e) *Health.*

The council is empowered to provide for the preservation of the general health of the inhabitants; to prevent the spread of contagious diseases; to suppress and prevent disease generally; and to prevent, and abate nuisances in the city or within a half mile of the city. If it is necessary to fill up or drain any premises in order to abate a nuisance, the expense may be assessed upon the owner. The council may compel the owner or occupant of any grocery, cellar, tallow-chandler's shop, soap, candle, starch or glue factory, tannery, butcher's shop, slaughter-house, stable, privy, sewer or other unwholesome or nauseous house or place, to cleanse or abate the same, whenever necessary for the health, comfort or convenience of the inhabitants; to prevent the deposit of carcasses, putrid or unsound beef, pork, fish, hides and skins or other unwholesome or nauseous article within the city, or one mile outside; to provide for the collection and carriage of garbage and refuse; to prohibit the feeding of refuse to animals in the city, and to provide for the disposal and destruction of refuse (Ib., Sec. 178). The council may regulate the construction of cellars, barns, drains, sinks, and privies, and put them in order at the expense of the owner; it may direct the construction of lateral sewers when necessary (Ib., Sec. 179). It may require establishments where nauseous, offensive or unwholesome businesses are carried on, to be constructed and conducted in accordance with regulations which they may prescribe, and it may prohibit them within certain limits (Ib., Sec. 180).

The council may prohibit and prevent the sale of every kind of unsound, nauseous, and unwholesome meat, poultry, fish, vegetables, or other articles of food, and impure or spurious wines and spurious liquors, and punish persons who knowingly offer them for sale (Ib., Sec. 184).

The council may regulate the burial of the dead; and provide for the registration of births and deaths, and the returning of bills of mortality. (Ib., Sec. 189.)

(f) *Fraud and extortion.*

The council has power to prohibit mock auctions and every kind of fraudulent device or practice, and punish persons using or practicing

them (Ib., Sec. 183); to license and regulate hotelkeepers, etc., hotel runners, hackmen, drivers of vehicles, for hire and fix the rates of their compensation (Ib., Sec. 186); to license and regulate auctioneers, hawkers, peddlers, newsboys, bootblacks, pawnbrokers, keepers of junk-shops, laundries, and second-hand stores; to regulate the peddling of fruits, nuts, cakes or refreshments, jewelry, and merchandise in public streets, keepers of butchershops and dealers in meat, fish, vegetables, food and provisions; to license regulate or suppress hucksters; and itinerant shows of any kind (Ib., Sec. 187). The council has power to appoint inspectors, measurers, weighers and gaugers and to prescribe their duties and compensation; to regulate the weight and quantity of bread, and the inspection of bread to provide for the inspecting and measuring of wood, lumber and all building materials, coke, coal and hay; the inspection and weighing of flour, meal, pork, beef, and all other food provisions and of salt to be sold in barrels, casks, or other packages; the inspecting and gauging of oils, wines, whiskey, etc., to be sold at wholesale or retail: *provided* that no article here enumerated which is to be shipped out of the state may be inspected or gauged, except at the request of the owner, and wood may not be measured except at the request of the buyer or seller. The council may regulate weights and measures and require them to be sealed. (Ib., Sec. 188.)

(g) *Public morals.*

The council has power to prohibit and prevent persons from selling or giving away intoxicating liquors to any child, apprentice or servant without consent of parent or master; to license and regulate the selling of intoxicating liquors by any shopkeeper, hotel or tavern keeper, saloonkeeper, etc., or by any other person. (Ib., Sec. 184.)

The council may prohibit and suppress houses of ill-fame, disorderly houses and disorderly groceries. It may restrain and punish the keepers thereof and the owners or lessors of such premises, and punish, restrain and prevent common prostitutes (Ib., Sec. 183). It may prohibit gaming with cards, dice, billiards, nine or ten pin alleys, wheels of fortune, or other instruments or devices in any store, shop, or other place; punish persons keeping the building, instruments or means for gaming, and compel the destruction of such articles. It may license and regulate keepers of billiard tables and pin alleys, but not for gaming purposes; prohibit lotteries and punish persons managing them and prohibit pool selling or the keeping of places for the purpose of betting on ball games, horse races or any other betting (Ib., Sec. 185).

The council may prevent indecent exposure and obscene pictures, books and exhibitions (Ib., Sec. 171).

(4) **Finance.**

(a) *Debt.*

The gross debt of the city, excluding the water debt, and subtracting the assets in the sinking fund must not exceed 2 per cent. of the assessed value of property in the city. (Ib., Sec. 239.)

No bond or evidence of indebtedness not expressly authorized by law may be issued by the common council, but refunding bonds, for debt already incurred, may be issued. (Ib., Sec. 242.) The council has power to borrow money only for the specific purposes authorized by law; but it may authorize the controller to borrow money to meet appropriations of the current fiscal year. (Ib., sec. 243.) Before any bonds are issued, the issue must be approved by the Board of Estimates, after a proposition for the purpose has been referred to them by the council. (Ib., Secs. 208, 209.) The council with the approval of the Board of Estimates, may issue bonds for the public sewer funds; for the public building fund (Ib., Sec. 239); to pay for local improvements, after the assessment for the purpose has been duly made (Ib., Sec. 274); to construct the public lighting plant, or construct poles, wires, conduits, etc., for the use of parties who contract for city lighting (Ib., Sec. 343); and to purchase school sites and erect school buildings, in accordance with estimates furnished by the Board of Education (Ib., Sec. 604). In addition many issues of bonds for specific purposes and for specific amounts have been authorized from time to time by special acts.

A sinking fund is provided, as one of the 15 principal funds of the city, for which 75 per cent of the face value of the bonds must be raised by taxation in equal yearly installments, but the total raised for the sinking fund in one year must not exceed \$15,000. (Ib., Sec. 237).

(b) *Appropriations.*

The council has power to appropriate moneys, to provide for the payment of the debt and expenses of the city, and to make regulations concerning the same. (Ib., Sec. 195).

The Commissioner of Public Works, the Commissioner of Police, the Commissioner of Parks and Boulevards, the Board of Fire Commissioners, the Board of Health and the Board of Education are required to send to the Controller on or before the first Tuesday of February, each year, estimates for the ensuing year. Before the first Tuesday in March the controller must submit these estimates to the council together with his estimate of the requirements of each of the funds constituted by the charter. At any time before the expiration of the time within which the council is required to act on the estimates, he may submit supplementary estimates to supply omissions or rectify errors. The council may revise or alter the estimates, but not so as to exceed the aggregate amount authorized by law to be raised by taxation, and on or before the first Wednesday in April they must transmit the revised estimates to the Board of Estimates. No money may be raised by taxation, except the obligatory items noted above, without the consent of the Board of Estimates. The controller and the various commissioners and boards are required to furnish to the Council information necessary for the proper consideration of the estimates. (Ib., Sec. 203). The Board of Estimates may disallow items in the different funds, as well as the gross amounts, and may decrease the

total amount to be raised, but not increase it. No amounts not approved by the Board of Estimates may be raised by taxation. (Ib., Sec. 208).

(c) *Taxation.*

The city of Detroit has not been given a general taxing power. The charter creates 15 separate funds, and authorizes the council to create other special funds (Ib., Sec. 233). For each of these funds the council is authorized to provide distinct revenues, and the estimates described above must apportion the total amount to be raised among the various funds in accordance with law. The funds are: (1) general fund; (2) contingent fund; (3) interest fund; (4) sinking fund; (5) fire commission fund; (6) poor commission fund; (7) general road fund; (8) public sewer fund; (9) street opening fund; (10) street paving fund; (11) public building fund; (12) recorder's court fund; (13) public lighting fund; (14) deficiency fund; (15) garbage fund. (Ib., Sec. 233).

For the general fund, the contingent fund, the fire commission fund, the poor fund, the general road fund, and the recorder's court fund, the council may levy taxes not exceeding 1 per cent of the assessed valuation. The amount to be raised for the public lighting fund must not exceed the estimated cost of lighting for the year, or the actual cost if it is already contracted for. The amount for the garbage fund is limited in the same way. (Ib., Sec. 234). For the general road fund, (out of which the city's share of the cost of street improvements is paid) a tax not greater than that authorized by state law for township road taxes may be levied. (Ib., Sec. 235.) For the sewer fund taxes not exceeding \$200,000 may be raised (Ib., Sec. 236). For the interest fund, a sum sufficient to meet the interest due during the year and to provide for possible deficiency in collections, may be levied. For the sinking fund upon each bond issue, an annual amount sufficient to raise, during the term of the bond, 75 per cent of their face amount, provided that the total for sinking fund in any year does not exceed \$15,000. (Ib., Sec. 237). Interest on public deposits is also paid into the sinking fund. (Ib., Sec. 255). The proceeds of special assessments constitute the street paving fund, the collections being credited to the specific improvement for which they are levied. Except upon petition of property owners, the city is forbidden to contract for improvements costing in the aggregate more than \$200,000 in one year. (Ib., Sec. 238).

The council has power to assess the cost of local improvements on property benefitted, according to frontage; but the city must pay for repairing and repaving, out of the general road fund. The council may also decide whether highway taxes shall be levied in money or in labor. (Ib., Secs. 169, 267).

(5) *Streets.*

The council has power to make, grade and improve public squares, spaces, etc.; to establish, open, widen, vacate, etc., public streets, lanes,

etc.; and to grade, pave and repair streets, etc. (Ib., Sec. 169). It has power to provide for cleaning the streets and for selling or disposing of street sweepings and earth from streets; to provide for street sprinkling upon petition of a majority of owners on any street, or part of a street, and assess the cost in the same manner as in the case of local improvements; to direct and regulate the planting of trees; and to provide for street lighting. (Ib., Sec. 170).

(6) Public utilities and public service.

(a) *Franchises in general.*

There are no provisions regulating the terms or manner of granting of franchises in general.

(b) *Transportation.*

Street railway companies in order to use the streets must secure the consent of the corporate authorities, to be given by ordinance. (Comp. Laws, Mich., 1897, Sec. 6446).

Street railways are mentioned in the charter of Detroit only in the clause authorizing the council to accept from such companies the surrender of their rights in any streets on condition that no other company shall be given the use of those streets. (Charter, Sec. 197).

(c) *Gas and electric light.*

Gas companies may lay pipes in streets, with the consent of the municipal authorities and under such reasonable regulations as they may prescribe. (Comp. Laws, Mich., 1897, Sec. 7123). Similarly, electric light companies. (Ib., Sec. 7141).

The council is authorized to appoint annually a gas inspector and an inspector of electric light meters. (Charter, Sec. 86). An act of 1875, included in the city charter, edition of 1904, creates a gas commission with powers to construct and operate a city gas plant. (Charter, Secs. 834-849).

The council is authorized to establish (and has established) a public electric lighting plant at a cost not exceeding \$800,000. (Ib., Sec. 339). The question of establishment of such a plant was required to be submitted to popular vote. (Ib., Sec. 341). The council is authorized to regulate by ordinance the carrying out of the powers thus conferred, and the use of electricity for lighting purposes. (Ib., Sec. 346).

(d) *Telephones and telegraphs.*

No specific provisions.

(e) *Water.*

The council appoints the water commissioners. (Charter, Sec. 624). Bonds are issued by the water commissioners with the consent of the council. (Ib., Sec. 626). The council may levy taxes annually for the water department, not exceeding \$75,000. (Ib., Sec. 658).

(f) *Sewers.*

The council has power to construct and maintain sewers, and to compel owners of occupied lots to construct private drains and connections under such regulations as it may prescribe. (Ib., Sec. 174). It may assess the cost of sewers on abutting property. (Ib., Sec. 179).

(g) *Markets and abattoirs.*

The council may erect and maintain market places, and establish markets and market places; it may lease market stalls, booths and stands, and regulate them. (Ib., Sec. 177).

(h) *Wharves, docks and landings.*

The council may erect, repair and regulate public wharves and docks at the ends of streets and on public property. It may regulate the construction of private wharves and docks, so as to prevent undue projection into the river and prevent the obstructing of public wharves. It may lease the wharfing privileges at street ends upon such terms as it sees fit, but no buildings may be erected on them; and no lease may be for longer than 3 years. (Ib., Sec. 168).

(7) **Recreation.**

The council has power to purchase, improve and use Belle Isle as a public park, (Ib., Sec. 518), and to extend the city lighting, fire, water and sewerage systems to parks outside the city limits. (Ib., Sec. 525). The council has power also to make, grade, improve and adorn public squares, parks and grounds under control of the city, and to regulate their use. (Ib., Sec. 169). The actual management of the parks is, however, in the hands of a park commissioner appointed by the council. (Ib., Sec. 541).

(8) **Education.**

The Board of Education is generally independent of the council. It transmits its estimates annually to the council through the controller and the council may disallow any items, but the amount approved by the council for the maintenance fund must be not less than \$5 for every child of school age, as shown by the school census. The council may provide for the raising of money for school buildings and sites. (Ib., Sec. 604).

A tax of one-fifth of one mill is required to be levied annually for public library purposes. (Ib., Sec. 602).

(9) **Charities and Corrections.**

The council is authorized to establish and maintain an alms-house and a hospital, either within or without the city; to build jails, work-houses, and houses of correction, and to control the same; to appoint all necessary officers and prescribe their duties. (Ib., Sec. 177). It may provide for the care of paupers, prevent the bringing of paupers into the city and provide for the burial of strangers and paupers. (Ib., Sec. 189).

New Orleans.

(1) General powers.

There is no general grant of powers to the council of New Orleans.

(2) Power over the structure of the city government.

The council must organize the departments of the comptroller, treasurer, commissioner of public works, commissioner of public buildings, city engineer, and city attorney, regulate the number of clerks therein, and fix the salaries of the clerks and employes. (Charter, Sec. 18.)

(3) Police power.

(a) *General police powers.*—The council exercises general police power in the city of New Orleans. Charter, Sec. 15 (15.)

(b) *Police force and public order.*

The council has power to preserve the peace and good order of the city. (Charter, Sec. 14 (1).)

It has power to provide for the maintenance of an efficient police force. (Charter, Sec. 14 (5).)

(c) *Public safety.*

Fire.—The council is authorized to provide for the maintenance of a fire department (Charter, Sec. 14 (5)); to determine within what limits wooden buildings shall not be erected, and to prevent the reconstruction in wood of old buildings within such limits (Charter, Sec. 15 (8)); to prevent explosive and dangerous substances from being stored or kept in dangerous quantities in the city, to designate the places where such dangerous articles may be stored, and to regulate the manner of hauling and keeping explosive substances. (Charter, Sec. 15 (7).)

Building regulation.—The council has authority to regulate the safety, height and thickness of walls and structures. (Charter, Sec. 15 (9).)

Miscellaneous.—Power is given to maintain levees, dykes, and to protect the city from overflow. (Charter, Sec. 14 (8).)

(d) *Convenience.*

The council has power to compel the owners of property or tenants to keep the sidewalks in front of their property clean and in repair (Charter, Sec. 15 (6)); to determine what animals shall not be permitted to rove in the limits of the city, and to cause them to be killed or to be confined and sold when found roaming at large. (Ib., Sec. 15 (10).)

(e) *Health.*

Because of the critical nature of problems of public health in New Orleans, the health powers of the council receive especial emphasis.

It is the duty of the council to maintain the city's cleanliness and health, and to this end: (a) to adopt and provide an efficient system of drainage; (b) to provide for the inspection and cleanliness of all vaults, privies, yards, pools, markets, cemeteries; (c) to regulate the location and inspection and cleansing of dairies, stables, cattle-yards, landings and pens, slaughter houses, soap, glue, tallow and leather factories, depositories for hides, and all places of business likely to be or become detrimental to health, and to adopt such ordinances and regulations as shall be necessary or expedient for the protection of health and to prevent the spread of disease, and to maintain a good sanitary condition in the streets, public places and buildings, and on all private premises. The common council shall provide for the frequent inspection of all premises by persons to be designated either by the common council or by the board of health; they shall also prescribe what water supply shall be provided by the owners of private premises, and that all premises, yards, streets and alleys shall be kept in a cleanly condition; shall provide for the punishment of any violation of said ordinances or regulations by fine or imprisonment or both; and all such fines, when recovered, must be paid to the board of health, to assist in its maintenance; (d) to suppress all nuisances; (e) to prevent the sale of adulterated or decayed food, and to punish the same; to punish the sale of adulterated drinks. (Charter, Sec. 14.)

(f) *Fraud and extortion.*

None of the powers usually included under this head are specifically granted in New Orleans.

(g) *Public morals.*

The council has power to regulate the police of theaters, public halls, dance houses, concert saloons, taverns, hotels, houses of public entertainment, shops for retailing alcoholic liquors, houses of prostitution and assignation, and to close such houses from certain limits, and to exclude the same, and to close houses and places for the sale of intoxicating liquors when the public safety may require it, and to authorize the mayor and police to close such places (Charter, Sec. 15 (11)): to close all gambling houses, and to expel from the city and to imprison all bunco men, lottery men, common cheats and swindlers, beggars and dangerous and suspicious characters.

(4) **Financial powers.**

(a) *Debt.*

There are no provisions governing the city debt.

(b) *Appropriations.*

The council must once in twelve months, before fixing and deciding upon the amount of taxes and licenses to be assessed for the coming year, cause to be made out a detailed estimate of liabilities and expenditures for the coming year and publish it for ten days in the official journal. The adoption of the detailed estimates shall be considered as the appropriation of those amounts; no appropriation other than those in the annual estimate shall be made. (Charter, Sec. 93.) Appropriations for any year must not exceed 80 per cent. of the estimated revenues. Any surplus over the appropriations is to be appropriated for public improvement. (Charter, Sec. 95.)

(c) *Taxation.*

The city is limited by the constitution (Art. 232) to a tax of 1 per cent., except for schools or public improvements of which the title remains with the city; in which case the extra tax must be approved at an election of tax payers by a majority in number and in value. The council is required once, at the first regular meeting, in the month of December, and not oftener, in each and every year, to levy an annual and uniform tax upon all property in the said city; and at the first regular meeting in December, and on the same day annually thereafter, shall impose an annual license tax on trades, professions and callings, as prescribed in the charter (Charter, Sec. 92.) All real and personal property is liable to taxation, subject only to the exemptions of the constitution of the state. (Charter, Sec. 96.)

The council must provide for the receipt and expenditure of bequests and grants. Such receipts are to be expended for public works, under the direction of the council. (Charter, Sec. 94.)

(5) *Streets.*

The council has power to open and keep open and free from obstruction all streets, public squares, wharves, landing, lake shore, and river and canal banks; to keep the streets and crossings and bridges and canals and ditches clean and in repair; to light the streets, wharves, landings and public squares (Charter, Sec. 14 (3), (4), (6)); to order the ditching, filling, opening, widening and paving of the public streets, and to regulate the grade thereof; to compel the owner of any lot or lots to fill the same to a grade above the grades of the streets, and to construct drains or gutters; to improve and embellish the public squares, parks and places. (Charter, Sec. 15 (1), (3), (4).)

Whenever one-fourth of the property owners on any unpaved street petition for paving, the council is required to publish the petition for four weeks, and if a majority do not within that time petition against the improvement, the council must pass an ordi-

nance therefor. Either three-fourths or two-thirds of the cost, according to the nature of the interest of the abutting owners in the street shall be borne by abutting owners, on frontage basis; the remaining one-fourth or one-third and the whole cost of intersections is to be paid by the city. (Charter, Sec. 97.) In case of repaving or of opening and straightening streets, the same procedure is required, but the whole cost is assessed upon the abutting owners. (Charter, Secs. 98, 99.) The council may, in its discretion, provide for paving any street entirely at the cost of the city or in the proportions above noticed, without the preliminary petition (Charter, Sec. 102); or it may order the paving of sidewalks, seven-eighths of the cost to be paid by the owners, one-eighth by the city (Charter, Sec. 103); such ordinances, however, passed without previous petition must have a majority of two-thirds of the council after notice duly published. (Charter, Sec. 104.) All streets and unpaved sidewalks shall be kept in repair by the city; paved sidewalks by the property owner. (Charter, Sec. 101.)

(6) Public utilities and public services.

(a) *Franchises in general.*

Every ordinance, resolution or order granting a franchise to any person or corporation, after having been introduced and passed by the council, like other ordinances, shall be published in full in the official newspaper for two weeks. The mayor shall then call together the comptroller, treasurer, commissioner of public works, commissioner of police and public buildings, the city engineer, and the city attorney, who shall sit publicly and may approve, amend, or reject the ordinance by a vote of four of them. It must then be approved by a majority of all members elected to the council. The mayor may then approve or veto; whereupon it must be returned to the council and to the officers named above; two-thirds of the members elected to the council and four of the officers may overrule the veto. The officers may grant hearings to persons interested. Adequate consideration must be required for such grants. (Charter, Sec. 86, as amended by Act 108 of 1902.)

No franchise for street lighting, sewerage or garbage disposal or any large and valuable franchise similarly affecting the public health and comfort, or for any street or belt railroad, shall be granted, except after three months' publication and adjudication by the comptroller to the highest bidder. (Charter, Sec. 87.)

(b) *Transportation.*

No street or belt railroad franchise shall be sold except to the person or corporation offering the highest percentage of gross annual receipts to be derived from such franchise during the term thereof, after deducting only the taxes paid "by reason of the ownership or operation of said franchise." (Charter, Sec. 87.) The holder of such a franchise is required to submit an annual statement

under oath of the gross receipts, giving in detail the items and sources and also the deductions claimed for taxes. The comptroller shall have access to all the books, papers and documents of such person or corporation, for the purpose of computing and verifying the statement and ascertaining the amount due the city. (Charter, Sec. 88.) A penalty is prescribed for false entries to defraud the city. (Charter, Sec. 89.)

The city's percentage is due November 1; interest at two per cent. monthly is charged until the amount is paid; if not paid by January 1, the franchise is forfeited. (Charter, Sec. 91.)

The council has power to authorize the use of streets for railroads operated by horse, electric, steam or other motive power, and to regulate the same; to require and compel all lines of railway or tramway in any one street to run on and use one and the same track and turn-table, and compel all such companies to keep in repair the streets, bridges and crossings over which the cars run. (Charter, Sec. 15 (13).)

(c) *Gas and electric light.*

No powers specified except the restriction as to street lighting franchises noted under (a).

(d) *Telephones and telegraphs.*

No powers specified.

(e) *Water.*

The water supply of New Orleans is under the control of a Sewerage and Water Board, created by special act of the legislature. The issue of bonds and the levying of a special tax for these purposes is authorized in the act.

(f) *Sewers and drains.*

See (e).

(g) *Markets and abattoirs.*

No powers specified.

(h) *Wharves, docks and landings.*

The council has power to construct and maintain wharves and landings, and to erect sheds and buildings thereon, to protect merchandise in transit, and to prescribe such charges, wharfage and levee dues as will pay for the construction and maintenance, lighting and policing the same, and no more, so as to make the port of New Orleans as near a free port as possible. (Charter, Sec. 15 (5).)

(7) **Public recreation.**

No specific powers as to these subjects are mentioned in the New Orleans charter.

(8) Education.

The schools of New Orleans are under the control of the school board of the parish of New Orleans, which consists of twenty members, twelve of whom are elected by the city council of New Orleans. The board is required to report annually to the city council on the condition of the schools, the attendance and cost of instruction, and the receipts and expenditures of the board. (La. R. S., Sec. 1217, p. 625.) It is the duty of the council in making up the budget to include the amount necessary to meet the expenses of the schools, as shown by the annual statement required above, with such additional allowance for probable increase as may seem just and reasonable; and to keep in good repair all the school houses and grounds belonging to the city.

The school board is an independent corporation; it administers school affairs without control by the municipal authorities, but is without power to bind the city for any amount. (See 44 La. Ann., 187.)

(10) Charities and corrections.

No powers over the administration of charities are conferred upon the city council.

The council has power to establish jails, houses of refuge, reformation and correction, and to make regulations for their government. (Charter, Sec. 15 (15).)

New York.**(1) General powers.**

"The Board of Aldermen shall have power to make, establish, alter, modify, amend and repeal all ordinances, rules, and police, health, park, fire and building regulations, not contrary to the laws of the State, or the United States, as they may deem necessary to carry into effect the powers conferred upon the City of New York by this act, or by any other law of the State, or by grant; and such as they may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, peace and prosperity of said city, and its inhabitants, except so far as power is conferred by this act upon presidents of boroughs, the police, health, park and fire departments, respectively, to make rules for the government of persons employed in and by said departments. Nothing in this section contained shall be construed to impair the powers conferred by this act upon the department of education; and except so far as the legislative power respecting the health, police, park, fire and building departments, shall be conferred upon said departments respectively, by the provisions of this act, and except that any modifications of the existing rules, regulations and ordinances affecting any of the departments, and all ordinances to be passed to govern the board

of public improvements, or any of the departments thereof, must originate with the department concerned, or with said board, and must be adopted or rejected by the board of aldermen without amendment. But nothing in this section or this act contained shall be construed to impair the power or control conferred by this act upon the board of estimate and apportionment with respect to the streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks bulkheads, wharves, piers, and all public grounds or waters which are within or belong to the city." (Charter, Sec. 43, as amended by Laws of 1905, p. 1536.)

Upon the original adoption of this section in 1901, Professor Goodnow wrote: "This section is a conspicuous example of the slovenly character of much state legislation. The clause in which the change of the plan proposed by the Charter Revision Commission was made, is simply appended to the end of the section; and as the section now reads, it is almost nonsense. The section refers to the 'Board of Public Improvements or any of the departments thereof,' though the board itself and many of its departments are abolished in subsequent sections of the charter. In the case of certain departments, however, which were not by the charter of 1897 included in the Board of Public Improvements, other sections of the Charter would seem to have effectuated the intentions of the legislature. The attempt of the Charter Revision Commission to simplify this matter of local ordinances has not therefore been successful." It is noteworthy that the legislature in 1905 re-enacted this section with no other change than the addition of the last sentence quoted above.

"No enumeration of powers in this act shall be held to limit the legislative powers of the board of aldermen except as in this act specifically provided, and the board of aldermen, in addition to all the enumerated powers, may exercise all of the powers vested in The City of New York by this act or otherwise, by proper ordinances, rules, regulations and by-laws not inconsistent with the provisions of this act, or with the Constitution or laws of the United States or of this State; and subject to such limitations, may from time to time ordain and pass all such ordinances, rules, regulations and by-laws, applicable throughout the whole of said city, or applicable only to specified portions thereof, as to the said board of aldermen may seem meet for the good rule and government of the city, and to carry out the purposes and provisions of this act or of other laws relating to the said city, and may provide for the enforcement of the same by such fines, penalties, forfeitures and imprisonment as may by ordinance or by law be prescribed." (Charter, Sec. 44, as amended by Laws of 1905, p. 1536.)

As will be seen in the detailed enumeration below, practically all financial powers have been removed from the board of aldermen and conferred upon the board of estimate and apportionment; the

whole matter of franchises has recently been similarly transferred. The limitation described above upon the power of the board of aldermen over the several departments, has the practical effect of leaving to the board of aldermen practically no material powers except in the somewhat narrow field of police ordinances.

(2) Power over structure.

The board of aldermen has no power to alter the structure of city government as detailed in the charter.

(3) Police powers.

(a) General police powers.

The board of aldermen is given general police power by Sec. 43, quoted above under "(1) General powers."

(b) Police force and public order.

Specific power is given to the board of aldermen to make ordinances in relation to street vagrants and beggars; and the use of fire arms and fire works, (Ib., Sec. 49 (3, 4)); in relation to intoxication, fighting and quarreling in the streets, breaking of street lamps, etc., (Ib., (5).)

(c) Public safety.

Fire.—There are no specific powers in regard to fire, other than the general power conferred in Sec. 43, quoted.

Building regulations.—General power over building regulations is given in Sec. 43, quoted above (see (1) General powers). Power is given to the board of aldermen to amend the building code (Ib., Sec. 407), but any ordinance regulating the height of buildings must first be approved by the board of estimate and apportionment; and provision must be made for public hearings on the subject. (Ib., Sec. 407.) Since the board of buildings was abolished by the charter of 1901, the provision of Sec. 43 that ordinances respecting the building department must originate with the department would seem to be nugatory. The board of aldermen is authorized to regulate the use of buildings as hotels in so far as such use may involve the safety of inmates in case of fire. (Ib., Sec. 49 (16).)

Machinery.—No specific power is given.

Miscellaneous.—The board of aldermen has power to make rules and regulations for the safety of passengers on excursion steamers, yachts and all craft at regattas or races in waters within the corporate limits or adjacent, and to preserve the peace and prevent the undue interference with regattas and races. (Ib., Sec. 52.) The aldermen also have power to regulate and forbid the keeping of dogs, (Ib., Sec 51.)

(d) Convenience.

The aldermen have power to regulate the use of streets and sidewalks by foot passengers, animals or vehicles; the speed of horses and

vehicles; street processions; street obstructions; depositing of refuse on the streets, the use of streets for signs, banners, posts, awnings, horse troughs, urinals, etc.; public cries, advertising noises, steam whistles and the ringing of bells in the streets; the exhibition of advertisements and handbills along the streets; and to make all such regulations in reference to the running of stages, omnibuses, trucks and cars as may be necessary for the convenient use of streets, piers, wharves or stations. All ordinances concerning these matters must be general, either for the whole city or for specified parts, (Ib., Sec. 50.)

All ordinances authorizing street obstructions or incroachments by private persons must fix a license fee for the privilege, according to the character, extent and duration of the structure authorized; and must provide for the issuing of revocable licenses therefor. The board of aldermen have no power, however, to authorize any incroachment or obstruction on any street or sidewalk except for temporary occupation during the erection of a building on the lot opposite; nor to permit the erection of booths or stands within street lines except for the sale of newspapers, periodicals, fruits and soda-water, and then only with the consent of the owner of the premises. "But no ordinance hereafter adopted, or power hereafter exercised by the board of aldermen shall limit, apply to or affect any franchise, grant, contract or resolution in the nature of a franchise, hereafter made, approved or authorized by the board of estimate and apportionment as in this act provided, or by the board of rapid transit railroad commissioners of the City of New York." (Ib., Sec. 50, as amended by Laws of 1905, p. 1540.)

(e) *Health.*

General power to provide for the public health is given in Sec. 43. The only specific power falling under this head is that to license and regulate the business of bone-boiling, fat rendering, and other noxious businesses. (Ib., Sec. 51.)

(f) *Fraud and extortion.*

The aldermen have power to provide for the inspection and sealing of weights and measures; the inspection, weighing, and measuring of coal, hay and straw, (Ib., Sec. 49 (1, 2)); to license and regulate the business of dirt carts, public cartmen, truckmen, hackmen, cabmen, expressmen, car drivers, and boatmen; bootblacks; pawnbrokers, junk dealers, keepers of intelligence offices, dealers in second hand articles, hawkers, peddlars, vendors, and scalpers and coal freights; menageries, circuses and common shows; to regulate the rates of fare of hackney coaches, carriages, automobiles and other vehicles, and to require annual license fees, (Ib., Sec. 51.)

(b) *Public morals.*

The aldermen have power to prohibit and suppress all gaming houses and places for gaming in the city, and to provide for the more effectual suppression of vice or immorality, (Ib., Sec. 49 (13, 14).)

(4) Financial powers.**(a) Debt.**

The constitution of New York fixes the maximum limit of indebtedness for cities at 10 per cent.; but additional indebtedness may be incurred to provide a water supply. The legislative power of the city of New York in regard to financial matters is almost entirely vested in the board of estimates and apportionment, a description of which will be found in Part Four, II (2) *infra*. Where powers are still conferred upon the board of aldermen by the charter in regard to financial matters, it will be found that they involve practically no discretion, and in most cases are practically the registration of the action of the board of estimate and apportionment.

For a large number of purposes, bonds of the city may be issued by the board of estimate and apportionment without the concurrence of the board of aldermen (Ib., Sec. 169). For other purposes, or for amounts larger than those named in the charter for various specific purposes, the board of aldermen may authorize the issuance of bonds provided that the board of estimate and apportionment first approves by a majority vote, (Ib. Sec. 169.) When a proposition for the issue of bonds is submitted to the aldermen by the board of estimate and apportionment, the board of aldermen must set a day not less than one nor more than two weeks from that time for its consideration; and if within six weeks a majority of the board vote in favor, or fail to vote against, such a proposition, it shall in either case be deemed to have been passed, (Ib. Sec. 48.)

(b) Appropriations.

The heads of departments are required by law to submit to the board of aldermen duplicate copies of the estimates furnished to the board of estimates and apportionment to serve as the basis of the annual budget. When the board of estimate and apportionment has made up and adopted the annual budget, it must submit it within five days to the board of aldermen. The mayor is required to call a special session of the board of aldermen immediately, and the aldermen must continue the consideration of the budget from day to day until final action is taken, which must be within twenty days. If no action is taken within that time, the budget stands adopted as submitted by the board of estimate and apportionment. Any amount fixed by the board of estimate and apportionment except such items as are fixed by law, and items for state taxes and principal and interest on city debt, may be reduced by the board of aldermen; but no amount in the budget may be increased, nor may the terms and conditions of any appropriation be altered, nor any new amounts inserted. Any reduction made by the board of aldermen in any appropriation may be vetoed by the mayor, and unless the veto is overridden by a three-fourths vote, the amount originally fixed by the board of estimate and apportionment stands adopted. The budget thus

passed by the board of aldermen is, upon certification by the mayor, comptroller and city clerk, an appropriation of the sums included in it for the purposes named. (Ib., Sec. 226.)

(c) *Taxation.*

The constitution limits the city tax rate to 2 per cent. in addition to the tax for interest and debt (Const. VIII., 10). The aggregate amount included in the annual budget must be certified to the board of aldermen by the comptroller, and they are required to cause the amount certified to be raised by taxation upon real and personal property subject to taxation (Ib., Sec. 249). The board of aldermen is required in levying the taxes to add to the amount required by the budget such sum as they shall deem necessary, not exceeding three per cent. of the aggregate amount, to provide for deficiencies in the actual product of the levy (Ib., Sec. 248).

(d) *Miscellaneous.*

It is the duty of the board of aldermen on recommendation of the board of estimate and apportionment to fix the salaries of all officers and persons whose compensation is paid out of the city treasury, except day laborers, teachers, examiners, and members of the supervising staff of the department of education. The board of aldermen may reduce, but may not increase any salary recommended by the board of estimate and apportionment; and the mayor may veto any reduction of salary in the same manner as a reduction in an appropriation, as noted above. (Ib., Sec. 56.)

(5) **Streets and public ways.**

The board of estimate and apportionment is given control over all the streets and public ways by Sec. 242, as amended by Laws of 1905, p. 1545. All powers granted by the charter to the board of aldermen with respect to streets, are subject to the control of the board of estimate and apportionment.

The board of aldermen is given power to regulate street pavements, cross walks, curbstones, gutter stones, and sidewalks; to provide for the regulating, grading, flagging, curbing, guttering and lighting of the streets (Ib., Sec. 50), to provide for the building of bridges over, or tunnels under, any stream or waterway; and for repaving streets. (Ib., Sec. 47.)

(6) **Public utilities and public services.**

(a) *Franchises in general.*

Exclusive power over franchises, except temporary licenses and permits, is given to the board of estimate and apportionment. (Ib., Sec. 242, as amended by Laws of 1905, p. 1546.)

(g) *Markets and abattoirs.*

The aldermen have power to provide for the acquisition, construction and establishment of markets (Ib., Sec. 47); to regulate the construction, repair, care and use of markets. (Ib., Sec. 49.)

(h) *Wharves, docks and landings.*

The aldermen may provide for the building of docks, wharves and piers. (Ib., Sec. 47.)

(8) **Public recreation.**

The aldermen have power to make regulations concerning swimming and bathing in the waters of the city, and to establish public baths and public comfort stations, and establish rules for them. (Ib., Sec. 49 (12).)

(9) **Education.**

The only power in regard to schools given to the board of aldermen is that to provide for the construction or acquisition of school buildings and the acquisition of sites, and the issuance of bonds for the purpose, provided that the proposition has been first approved by the board of estimate and apportionment. (Ib., Sec. 47.)

(10) **Charities and corrections.**

The law requires the board of estimate and apportionment to include in the annual budget, and the board of aldermen to confirm without change, a large number of appropriations for charitable institutions which care for the city poor (Ib., Sec. 230). Aside from this, none of the powers of the city in regard to charities and corrections are vested in the board of aldermen.

Philadelphia.

(1) **General powers.**

The powers of the councils of Philadelphia must be sought in various acts from 1701 to 1906. There is no charter in force which repeals former acts. Under the rather general grant of power in the charter of 1789, many municipal functions were developed; the consolidating act of 1854 recognized and continued them. The Bullitt Bill of 1885 reorganized the departments, and very greatly impaired the powers of the councils as against those of the mayor and the executive departments. The councils were forbidden to add to the departments created by the act; those heads of departments who were not elected by the people were made appointive by the mayor and the heads of departments were given power to appoint bureau chiefs and subordinate officers. The departments were given broad power of regulation over their own affairs. The intention of the act was to deprive the councils of executive power of every sort; and to separate completely the executive and legislative functions. In addition, some fields of legislation usually left to a city council are covered in detail by state statutes. An example is the act of the 5th of May, 1899 (P. L., 199), which prescribes a complete code of building regulations for Philadelphia.

The most general grant of power is found in Sec. 16 of the charter of 1789, which is still in force "the mayor, recorder, aldermen and common councilmen, in common council assembled, shall have full power and authority to make, ordain, constitute and establish such and so many laws, ordinances, regulations and constitutions (provided the same shall not be repugnant to the laws and constitution of this commonwealth), as shall be necessary or convenient for the government and welfare of the said city, and the same to enforce, put in use and execution, by the proper officers, and at their pleasure revoke, alter and make anew as occasion may require." (2 Smith's Laws, 467.)

The consolidating act of 1854 provides: the city of Philadelphia, as established by this act, shall be vested with all the powers, rights, privileges and immunities incident to a municipal corporation and necessary for the proper government of the same. (P. L. 1854, 25.)

The Bullitt Bill provides: councils shall, by general ordinances, provide for the proper and efficient conduct of the affairs of the city by the mayor and several departments, and the boards thereof, but they shall not pass any ordinances directing or interfering with the exercise of the executive functions of the mayor, departments, heads or officers thereof. (P. L. 1855, 54.)

(2) Structure of city government.

The Bullitt Bill provides for nine executive departments (to which a tenth was added by P. L. 1903, 153) and forbids the councils to create others. It declares, however, that councils shall provide by ordinance for such bureaus, clerks or other subordinate officers as may be required for the transaction of the business of the department. (P. L. 1885, 40.)

On account of the detail with which the organization of the executive branches of the government of Philadelphia are prescribed by statute, the powers of the municipal councils over the structure of the government are exceedingly narrow.

(3) Police power.

(a) *General police powers.*

There are no general grants of police power in Philadelphia aside from those given above under (1) General powers.

(b) *Police force and public order.*

The councils are authorized and directed to organize a police department; and may make all needful laws and ordinances for the regulation thereof, and for the preservation of the public peace, the suppression of riots and disturbances and the protection of property at fires; "and for this purpose the said councils shall be and hereby are vested with ample power in the premises." (P. L.

1854, 43.) Councils have power to fix the compensation of members of the police force. (P. L. 1854, 27.)

(c) *Public safety.*

Fire.—Councils may organize if necessary a fire department subordinate to or independent of that of police, and make all needful laws for its regulation and for the extinguishment of fires. (P. L. 1854, 43.) Councils may regulate the following: (1) The manufacture and handling of high explosives; (2) manufacture and handling of chemicals and combustibles; (3) the possession and use of benzine, naphtha, gasoline, etc.; (4) the manufacture, handling and use of acetylene and calcium carbide; (5) subjects of a similar character. (P. L. 1901, 361.)

Building regulation.—The councils have no specific powers to prescribe building regulations. The state legislature has supplied a detailed code of building laws for Philadelphia. (P. L. 1899, 199.)

(d) *Convenience.*

The statutes do not confer upon the councils any of the specific powers usually included under this head. They are exercised only under the general powers above quoted.

(e) *Health.*

Most of the powers usually conferred upon city councils under this head are exercised in Philadelphia by the Bureau of Health. The city councils exercise powers over these matters under the general grants of power.

The councils are authorized to control the action of the Bureau of Health in supervising bone-boiling establishments. (P. L. 1855, 89.) They have power also to exempt from the operation of any statute conferring powers over nuisances upon the Bureau of Health such rural or thinly settled districts as they think may be safely exempted. (Ib.)

The councils have at various times been given powers of inspection over certain matters: Thus the milk supply (P. L. 1864, 912); oyster saloons (P. L. 1874, 235); tobacco (P. L. 1855, 264); the cleaning of docks (P. L. 1856, 567; P. L. 1858, 449).

(f) *Fraud and extortion.*

The councils have power to regulate the charges of wagoners, carters, draymen, porters, wood sawyers and chimney sweepers. (2 Sm. L., 527.) They have power also to regulate omnibuses and similar vehicles and provide for licensing them. (P. L. 1850, 469.) The councils appoint one of three fuel inspectors whose duties are prescribed by state act; one of the other two being appointed by the governor and the third by the mayor. (P. L. 1871, 1402.)

(g) *Public morals.*

There is no specific grant of power over matters affecting the public morals apart from the general grants of power cited above.

(4) **Financial powers.**

(a) *Debt.*

The constitution provides that the debt of the city shall never exceed 7 per cent. of the assessed valuation; nor shall any new debt nor any increase exceeding 2 per cent. be incurred except with the assent of the electors. (Const., Art. 9, Sec. 8.) The procedure in accordance with which the assent of the electors is determined is prescribed in detail by the statute. (P. L. 1891, 252.) The constitution also provides that every city shall create a sinking fund which shall be inviolable pledge for the payment of its funded debt (Art. 15, Sec. 3), and that whenever a debt is incurred an annual tax shall be provided for sufficient to meet the interest, and to pay the principal within thirty years. (Art. 9, Sec. 10.) The control of the sinking fund is in the hands of a sinking fund commission composed of one member elected annually by the councils, together with the mayor and the controller. (P. L., 1885, 49: Ordinance 19, June, 1857, Sec. 2:—Philadelphia Digest, 583.) The city must annually, until the payment of the funded debt is provided for, levy in addition to all other taxes a tax of not less than 1 mill nor more than 3 mills on the dollar as a sinking fund tax, which shall be applied to no other purpose. (P. L., 1877, 36.) The sinking fund tax levied for each bond issue must equal at least 8 per cent. of the amount of the increase. (P. L., 1874, 67.)

(b) *Appropriations.*

Appropriations must be by ordinance, stating the objects and the amount for each object. (P. L., 1855, 269.) No appropriation shall be honored by the controller until all appropriations shall have been made for the current year by every department, nor until the total appropriations have been brought within the estimated revenue as computed in the manner described by law. (P. L., 1879, 130.)

(c) *Taxation.*

The city councils shall fix the rate and levy all the taxes authorized by law within the city and county, except the state tax, and direct the amount to be applied and paid by the city treasurer to health, school, poor, city and other purposes according to law. The taxes must be voted so as to show how much is raised for each object respectively; but they must be collected and accounted for to the treasurer as one city and county tax. (P. L., 1854, 42.) The councils have power to tax for municipal purposes all subjects of state taxation, as specified by P. L., 1844, 497, Sec. 32; "and

to provide by ordinance for the assessment thereof and the collection of taxes thereon." (P. L., 1864, 1030.)

It is the duty of councils to levy and fix a tax rate on or before October 1st each year, the levy being calculated in such amount as to allow the same proportion for losses in collection as has been shown by the average of the past five years. If the councils fail to fix the tax rate before October 1st, the tax rate of the previous year shall be the rate for the current year. (P. L., 1879, 130.)

(d) *Miscellaneous.*

The salaries of all officers are determined by the councils. (P. L., 1854, 44.)

(5) **Streets and public ways.**

"The municipal authorities and courts having jurisdiction in any city of the commonwealth shall have exclusive control and direction of the opening, widening, narrowing, vacating and changing grades of all streets, alleys and highways within the limits of such city and may open or widen streets at such points, and of such width, as may be deemed necessary by such city authorities and courts." (P. L., 1881, 68.) Upon petition of a majority of the property owners of any block, the councils may order the paving of that block and assess the cost on abutting property. (P. L., 1867, 1303.) The same provision applies to the macadamizing or turnpiking of streets in rural wards. (P. L., 1868, 316.) The city has power to build bridges. (P. L., 1855, 266.)

(6) **Public utilities and public services.**

(a) *Franchises in general.*

There are no provisions governing the granting of franchises in general.

(b) *Transportation.*

Beside the constitutional provision that no street railway shall be constructed within the limits of any city without the consent of its local authorities (Art. 17, Sec. 9) there are a few statutory provisions regulating the power of the councils over such matters. City councils have power to authorize extensions of existing railways on streets not now occupied; or on streets already occupied by a street railway councils may authorize a new track, or if the company already in possession agree it may authorize the use of the existing tracks on payment of the interest on one-half of the cost, and one-half the expense of maintenance. (P. L. 1878, 38.) Passenger railways of the city of Philadelphia are required by statute to pay to the councils an annual license fee of \$50 for each car used. "and they shall not be required to pay any larger sum; and said city shall have no power by ordinance or otherwise to regulate passenger railways unless authorized to do so by the laws of this

commonwealth expressly in terms relating to the passenger railway corporations in the city of Philadelphia; provided **that nothing contained in this act shall be construed to release** said companies from keeping in good repair the streets on which their rails are laid, and from paying to the city the additional cost of constructing sewers along the lines of their roads." (P. L. 1868, 849.) Passenger railway companies may use other than animal power by permission of councils; but the councils are forbidden to give such permission except on condition that the company shall reduce its fares to 5 cents for a single ride. (P. L. 1876, 147.)

(c) *Gas and electric light.*

Under the lease of the city gas plant to the United Gas Improvement Company, executed November 12, 1897, the councils reserve a few powers of control. The councils reserve the power to terminate, under certain conditions, the lease to the company at the expiration of 10 years. (Clause 6, Philadelphia Digest, 288.) It is provided that "it shall be competent for councils to reduce the charges from time to time by ordinances; but said ordinances shall not at any time reduce the price below the following:" until December 31, 1907, 90 cents per thousand; from January 1, 1908, to December 31, 1912, 85 cents per thousand; from January 1, 1913, to December 31, 1917, 80 cents; from January 1, 1918, to December 31, 1927, 75 cents. (Clause 11, Philadelphia Digest, 295.)

There are no provisions governing the action of the councils in the matter of electric light franchises.

(d) *Telephones and telegraphs.*

No specific powers granted.

(e) *Water.*

The city is empowered to purchase and hold any springs, streams, water powers or privileges in any one or more of the counties adjoining the city and county of Philadelphia, and to build water works, etc., and to maintain works to convey the water to the city of Philadelphia for the use of the inhabitants. (P. L. 1866, 635.)

(f) *Sewers and drains.*

The city of Philadelphia has power to construct sewers or drains in the streets of the city and to charge the sum of \$1.50 per linear foot against abutting property. (P. L. 1865, 791.)

(g) *Markets and abattoirs.*

No specific powers granted.

(h) *Wharves, docks and landings.*

Penn's Charter 1701 authorizes the inhabitants to improve the ends of streets extending into the river Delaware for the best advantage of the city, and to build wharves so far out into the river

as the mayor, aldermen and common council shall meet. (Philadelphia Digest, 13.)

(7) Recreation.

The city is required to maintain Fairmount Park and provide for its expenses by loans and taxes. (P. L. 1870, 451; P. L. 1868, 1087, 1090; P. L. 1871, 874.)

(8) Education.

The controllers of the public schools are required to furnish to the councils annually an estimate of the amount necessary to support the schools for the current year; the councils must thereupon levy the school taxes. (P. L. 1854, 42.) Moneys for school purposes shall be paid into the city treasury; and paid out for school purposes upon appropriations regularly made by councils. (P. L. 1854, 35.)

The administration of the schools is almost entirely independent of the city councils.

(9) Charities and corrections.

The councils have power to provide by general ordinances for all things needful for the proper and efficient management of the charitable institutions and the Bureau of Charities; "and all able bodied paupers, vagrants and other persons admitted or committed to any of the said institutions may be required to work upon the public streets or roads or elsewhere." (P. L. 1885, 48.) By the consolidating act of 1854 all laws then in force concerning the guardians of the poor were continued in force, "except as the same may hereafter be altered by law or by ordinance." (P. L. 1854, 33.)

The councils may establish a house of correction. (P. L. 1868, 1092.)

St. Louis.

(1) General powers.

The assembly has power to pass all such ordinances not inconsistent with the provisions of the charter or the laws of the state, as may be expedient in maintaining the peace, good government, health and welfare of the city, its trade, commerce and manufactures, and to enforce the same by fines and penalties not exceeding \$500, and by forfeitures not exceeding \$1,000. (Charter, Art. III, Sec. 26 (14).)

(2) Structure of city government.

The municipal assembly has power by ordinance passed by a two-thirds vote to create any office other than those mentioned in the charter which it may deem necessary, and to provide for the manner of filling the same. (Charter, Art. IV., Sec. 45.) The assembly must

by ordinance define the duties of all city officers, and may change, increase or diminish them in a manner not inconsistent with this charter. (Ib., Sec. 28.) The assembly has power by a vote of three-fourths of the members of each house, to transfer and distribute the powers and duties, in part or in whole, of any office provided for in this charter to another, or others, and in such case the performance of the powers and duties added to those of any office shall not entitle the officer to additional compensation; in case the entire powers and duties of an office be so transferred and distributed, the office shall cease to exist. (Ib., Art. III, Sec. 32.)

(3) Police power.

(a) *General police powers.*

The assembly has power to pass all such ordinances, not inconsistent with the provisions of this charter or the laws of the state, as may be expedient in maintaining the peace and good government of the city. (Ib., Art. III, Sec. 26 (14).)

(b) *Police force and public order.*

Power is given to establish and maintain a system of police; provided, that no system of police shall be established or maintained other than the present metropolitan system, as long as the same is established by law. (Ib., Art. III, Sec. 26 (2).) It has power also to prevent any riot, rout, noise, disturbance or disorderly assemblies (Ib., Sec. 26 (9)); to impose, collect fines, forfeitures and penalties for the breach of any city ordinance. (Ib., Sec. 26 (10).)

(c) *Public safety.*

Fire.—The assembly has power to establish and maintain a fire department (Ib. Sec. 26 (2)); to regulate the storage of gunpowder and other explosive compounds, and of all combustible and inflammable materials, the use of lights and candles in stables, shops and other places, remove or prevent the construction of any fireplaces, chimneys, stoves, oven, boiler, kettle or any apparatus used in any house, building or manufactory or business, which is likely to cause fires; to direct the safe deposit of ashes, rubbish, etc. (Ib., Sec. 26 (12)); to provide for the inspection of oil, naphtha, benzine, and other burning fluids (Ib. Sec. 26 (7)); to compel persons to aid in extinguishing fires, or in the preservation of property likely to be destroyed, and compel owners of buildings to have scuttles and ladders or stairs leading thereto. (Ib. Sec. 26 (12).)

Building regulations.—The assembly may, through its officers or agents, at all reasonable times, enter into and examine all dwellings, lots, yards, enclosures, and buildings of every description, to ascertain their condition for health, cleanliness and safety; take down and remove buildings, walls or superstructures that are or may become dangerous or require owners to remove them or put them in a safe or secure condition

at their own expense; to provide for the safe construction, inspection and repairs of all private or public buildings; to regulate or restrain the building of wooden buildings within prescribed limits, and remove them at the owner's expense when in violation of the ordinance. (Ib. Sec. 26 (12).) The assembly shall, without unnecessary delay, enact stringent and efficient laws for securing the safety of persons from fire in halls and buildings used for public assemblies and entertainments. (Ib. Sec. 27.)

Machinery.—The assembly has power to provide for the inspection of steam boilers and all steam heating apparatus, and to license engineers using steam boilers in the city. (Ib. Sec. 26 (7).)

(d) *Convenience.*

The assembly is given power to prevent and remove all obstructions and encroachments upon the sidewalks, curbstones, carriage-ways, streets, etc., at the expense of the owners of abutting property, and to regulate and prohibit the building of vaults under sidewalks. (Ib. Sec. 26 (9)); to prevent the driving of stock through the city. (Ib., Sec. 26 (6).)

(e) *Health.*

Power is granted to establish and maintain a sanitary system (Ib., Sec. 26 (2)); to establish and enforce quarantine laws and regulations; to prevent the introduction and spread of diseases; to establish and regulate hospitals, and to secure the general health of the inhabitants by any measure necessary; to regulate the slaughtering of animals; provide for the erection, management and regulation of slaughter houses; to prohibit the erection of soap factories, stockyards and slaughter houses, pig pens, cow stables and dairies, coal oil and vitriol factories within prescribed limits, and to remove and regulate the same, and to regulate or prevent the carrying on of any business which may be dangerous or detrimental to the public health, or the manufacture or vending of articles obnoxious to the health of the inhabitants, and to declare, prevent and abate nuisances on public or private property and the causes thereof. (Ib., Sec. 26 (6).) Full powers of sanitary inspection of premises are given by Sec. 26 (12). It is provided that no soap factory, slaughter house, bone or rendering factory may be erected within three hundred feet of any dwelling house without the consent of the owner and occupant (Ib., Art. III, Sec. 34), and that no person or corporation shall receive cholera patients unless authorized by ordinance. (Ib., Sec. 35.)

The assembly is authorized to provide for the inspection of beef, pork, flour, meal, molasses, syrups, vinegar, beer and ale, wines, whiskey, and other spiritous liquors in barrels and other vessels; butter, cheese, milk, lard and other provisions; for the inspection and vending of meat, poultry, fish and vegetables; to designate the place where such articles shall be sold. (Ib., Sec. 26 (7).)

(f) *Fraud and extortion.*

The assembly is empowered to regulate the weight and quality of bread and the price and quality of gas; to restrain and punish the forestalling of poultry, butter, eggs, vegetables and fruits, and to regulate or suppress hucksters; to regulate and establish the standard of weights and measures to be used in the city of Saint Louis, and to provide for the inspection of the same; to provide for the inspection of lumber and building materials; the inspection and weighing or measuring of hay, or stone, coal, charcoal, firewood, and all other kinds of fuel to be used in the city; ("provided that nothing in this article shall be construed as to authorize the inspection of any article enumerated in this act, which is to be shipped beyond the limits of the city, except at the request of the owner thereof; and provided further, that the inspectors, under this subdivision, shall be qualified by practical experience to discharge their respective duties.") (Ib., Sec. 26 (7).) The assembly has power to license, regulate or suppress ordinaries, hawkers, peddlers, brokers, pawnbrokers, money changers, intelligence offices, undertakers, dentists, auctioneers, grocers, merchants, retailers, hotels, boarding houses, tenement houses, office buildings, public buildings, public halls, public grounds, concerts, photographers, artists, agents, porters, runners, drummers, public lecturers, public meetings and shows, real estate agents and brokers, financial agents and brokers, horse and cattle dealers, patent rights dealers, inspectors and gaugers, stockyards proprietors, examiners of titles, conveyances, mercantile agents, insurance companies and insurance agents, bankers and banking institutions, telegraph companies, street cars, livery and sales stables, hackney carriages, private carriages, omnibuses and other vehicles, and all other businesses, trades, avocations or professions whatsoever; to fix the rates for carriage of persons and of wagonage, drayage and cartage of property. (Ib., Sec. 26 (5).)

(g) *Public morals.*

Liquor licenses in Saint Louis are under the control of state authorities; power is given in the charter, however, to license, regulate or suppress saloons, beer houses, tippling houses, dram shops and gift enterprises; public masquerade balls, street exhibitions, dance houses, fortune tellers, pistol galleries, lottery ticket dealers, corn doctors, lock, private and venereal hospitals, museums and menageries, equestrian performances, horoscopic views, lung testers, muscle developers, magnifying glasses, billiard tables, or any other tables or instruments used for amusement, circuses, operatic and other exhibitions, shows and amusements; to suppress prize fights, coon fighting, dog fighting, chicken cock fights, gaming or gambling houses, bawdy and disorderly houses, houses of ill fame. (Ib., Sec. 26 (5).)

(4) Financial powers.**(a) *Debt.***

The state constitution fixes a limit of five per cent upon municipal indebtedness (Const. X., 12). The council has power to borrow money on the faith and credit of the city by the issue and sale of bonds and notes, for such amounts and for such time and for such purpose as may be required for current expenses, and for the payment of maturing bonds, and for such other purposes as may be authorized by the charter or by the constitution, but no note for the purpose of borrowing money shall be issued for a longer period than twelve months.

(b) *Appropriations.*

There is no provision in the charter governing the preparation of an annual budget. It is provided that the appropriations of the municipal assembly for the payment of interest, for the payment of the public debt, for public improvements and for the support of the city government during any one fiscal year, shall be in conformity with the requirements of the constitution of the state (Charter, Art. V, Sec. 9); and that no appropriation shall be made from any fund in excess of the amount credited to the fund nor for purposes to which that fund is not applicable by law. (Ib., Sec. 10.)

(c) *Taxation.*

The taxing power of the city of Saint Louis is limited by the constitution to a rate of one dollar on the hundred dollars for city purposes and thirty-five cents on the hundred dollars for county purposes.

For the support of the government of the city, the improvement thereof, and the payment of the public debt, the municipal assembly shall, by ordinance, annually levy, assess and collect taxes on all subjects and objects of taxation and on all property within the city made taxable by law for state purposes; and establish the rate thereof as follows: For municipal purposes a sum not exceeding the constitutional limitation; for debt outstanding April 7th, 1890, the sum of \$1,200,000 as required by Art XIV, Sec. 2 of the charter; for debt incurred since April 7th, 1890, enough to pay interest and to constitute a sinking fund sufficient to pay the principal in twenty years. The taxes for sinking fund purposes must be kept separate from those for all other purposes. The rate for municipal purposes may be increased for the erection of public buildings by a vote of two-thirds of the qualified voters of the city. (Ib., Art. V, Sec. 1.) The ordinance establishing the percentage of the tax levy for the current year must be delivered to the board of assessors by the fourth Monday in May annually, and if it is not so delivered, the rates last previously established shall be the percentage for the current year. (Ib., Art. V, Sec. 27.) The assembly shall also provide by ordinance for the levy and collection of all other taxes, licenses, wharfages, and other dues

of every description, and to fix the penalties for neglect or refusal to pay the same according to law and ordinance. (Ib., Art. V, Sec. 4.)

(5) Streets and public ways.

The assembly has power to establish, open, vacate, alter, widen, extend, pave, or otherwise improve and sprinkle all streets, avenues, sidewalks, alleys, wharves, public grounds and squares, and provide for the payment of costs in the manner prescribed in the charter; and also to provide for grading, lighting, cleaning and repairing them, and to condemn private property as provided in the charter; to construct and keep in repair all bridges, streets, sewers and drains, and to regulate the use thereof, and to confine, wall up, cover over, alter or change the channel of water course. (Ib., Art. III, Sec. 26 (2)); to construct all needful improvements in the harbor; to control, guide or deflect the currents of the river. (Ib., Sec. 26 (4).)

The municipal assembly has power by ordinances recommended by the board of public improvements to establish from time to time such streets as may be necessary to provide public thoroughfares for free and convenient traffic and communication between different parts of the city. They may by ordinance recommended by the Board of Public Improvements, establish and open boulevards or change existing streets into boulevards, fix their width, and the manner of laying them out and improving them, and regulate the traffic, and may exclude heavy traffic and business houses. They may discontinue boulevards; provided, however, that an ordinance for this purpose must not be passed without the consent in writing of the owners of at least two-thirds of the frontage of all the property fronting on the boulevard, nor unless the ordinance be recommended by the Board of Public Improvements. (Ib., Art. VI, Sec. 1.) No ordinance for the construction or reconstruction of any street, avenue or boulevard, alley or public highway of the city may be passed unless recommended by the Board of Public Improvements. (Ib., Sec. 14.) If a proposed improvement is opposed by a remonstrance signed by a majority of the abutting owners, a vote of two-thirds of the members elected to the assembly is required to pass the ordinance. (Ib., Sec. 16.)

Street improvements may be paid for by a special assessment: One-fourth of the whole cost of the improvement, including cross walks and street intersections, is to be charged against abutting property, according to the front foot rule, and three-fourths as a special tax on all property within the district benefited, in proportion to area. Side-walks are constructed at the expense of owners of abutting property in accordance with the front foot rule; alleys are improved by a special tax upon property to which the alley gives access in proportion to area. (Ib., Art. VI, Sec. 14.)

The assembly has power to regulate the width of the tires of all vehicles used for heavy transportation. (Ib., Art. III, Sec. 26 (5).)

(7) Public utilities and public services.**(a) *Franchises in general.***

There are no provisions governing the power of the assembly in the matter of granting franchises in general.

(b) *Transportation.*

The assembly has sole power and authority to grant to persons or corporations the right to construct railways in the city, subject to the right to amend, alter, or appeal any such grant in whole or in part, and to regulate and control the same, as to their fares, hours, and frequency of trips, and as to the repair of their tracks, and the kind of their rails and vehicles; but every right so granted shall cease unless the work of construction shall be begun within one year from the granting of the right, and be continued to completion with all reasonable practical speed, and it shall be the cause of forfeiture of the rights and privileges derived from the city, of any railroad company operating its road only within the city, which shall allow any person to ride or travel on its road gratuitously, or for less than the usual price of fare, unless such person be an officer or employee of such company. (Ib., Art. III, Sec. 26 (11).) The assembly has power by ordinance to determine all questions arising with reference to street railroads in the corporate limits of the city, whether such questions involve the construction of the roads, the granting of the right of way, or regulating and controlling them after their completion. They may sell the franchise to the highest bidder, or, as a consideration, they may impose a per capita tax on passengers, an annual tax on gross receipts, or on each car; and no street railroad shall hereafter be incorporated or built in the city except on the conditions of the charter, in such manner and to such extent as may be provided by ordinance. (Ib., Art. X, Sec. 1.) They may regulate the time and manner of running cars, rates of fare on railroads now or hereafter built, and the sale of tickets and the exchange thereof between companies; they may tax the property of street railroad companies; they may tax the property of street railroad companies the tracks of one company by other companies upon payment of just compensation. (Ib., Sec. 6.)

(c) *Gas and electric light.*

The assembly has power to regulate the quality and price of gas. (Ib., Art. III, Sec. 46 (7).)

(d) *Telephones and telegraphs.*

There are no specific provisions in the charter of Saint Louis concerning the telephone and telegraph service.

(e) *Water.*

The city has power to establish and maintain water works for fully supplying the city with wholesome water and distributing it for public and private uses in such manner and upon such terms as shall

be provided by ordinance. (Ib., Art. III, Sec. 26 (2).) The assembly has power to fix water rates. (Ib., Art. VII, Sec. 11.)

(f) *Sewers and drains.*

The assembly has power to construct and keep in repair sewers and drains and to regulate the use thereof; to establish and maintain a sanitary system. (Ib., Art. III, Sec. 26 (2).) Sewer districts are established by the Board of Public Improvements; the municipal assembly is required to cause sewers to be constructed in any district whenever a majority of the property holders resident therein shall petition therefor, or whenever the Board of Public Improvements shall recommend it as necessary for sanitary or other purposes. The cost is met by special taxation upon property in the sewer district. (Ib., Art. VI, Sec. 21.) Whenever the assembly on the recommendation of the Board of Public Improvements deems it necessary to construct a sewer for the drainage of more than one sewer district, a joint district may be erected, or a part of the cost may be levied upon territory not organized into a sewer district. (Ib., Art. VI, Sec. 22.) Private sewers may be constructed under such restrictions as the assembly may prescribe by general or special ordinance recommended by the Board of Public Improvements, but no part of the expense shall be charged against the city. (Charter, Art. VI, Sec. 23.)

(g) *Markets and abattoirs.*

The city has power to establish market places and meat shops, and to license, regulate, sell, lease, abolish or otherwise dispose of them. (Ib., Art. III, Sec. 26 (3).)

(h) *Wharves, docks and landings.*

The assembly has power to erect, repair and regulate public wharves and docks; to regulate marine railways; to regulate and license all ferries and tow boats, towing boats, or other water craft into or out of the harbor; to sell ferry privileges within the city limits and to establish ferry rates, create the office of port wardens and define their duties; to regulate the stationing, anchoring and mooring of vessels and wharf boats within the city; to charge and collect wharfage and tonnage dues, levee rates, and wharfage on firewood, lumber, timber, logs, shingles, and other articles brought to the port of Saint Louis; to set aside or lease portions of the unpaved wharf for special purposes, such as the erection of sheds, elevators, and warehouses, and for railroad tracks, for quay places, for the landing of lumber for mills, for cotton presses, for manufactories, and for any purpose tending to facilitate the trade of the city,—but no permit to use any portion of the wharf, or any lease of the same shall be granted for a term exceeding fifty years. (Ib., Art. III, Sec. 26 (4).)

(8) Public recreation.

The control of parks in Saint Louis is vested in the park commissioners, whose powers are largely independent of the assembly. The assembly is authorized, however, to enclose, improve, regulate or sell all parks or other public grounds belonging to the city. (Ib., Art. III, Sec. 26 (3).) It is required to make annually such appropriation, not less than \$30,000, out of the revenue of the city for the purpose of improving and keeping in order the parks, squares and places under the supervision of the park commissioners. (Ib., Art. VIII, Sec. 3.) The assembly has authority, upon recommendation of the Board of Public Improvements, to pass an ordinance for the sale or lease of any park, but the ordinance must provide that the proceeds of the sale be paid to the fund commissioners and rentals to the credit of the Board of Public Improvements for the improvement of parks; and any such ordinance must be submitted to popular vote and ratified by a majority of the qualified electors. (Ib., Art. VIII, Sec. 4.)

(9) Education.

The administration of schools is entirely independent of municipal assemblies; even the fixing of the school tax rate is placed not in the hands of the municipal assembly, but of the school board. (Ib., Art. XIII, Sec. 4.)

(10) Charities and corrections.

The assembly is authorized to provide for the support and maintenance and confinement of insane persons; and to make suitable provision for the maintenance and support of poor persons. (Ib., Art. III, Sec. 26 (13).) The assembly is forbidden to appropriate any money for charitable purposes except such as are subject to its own supervision and administration, under a system of suitable arrangements to be established whereby the partakers of the charity shall respectively earn what they receive to the extent of their ability. (Ib., Art. III, Sec. 33.)

San Francisco.**(1) General powers.**

The Board of Supervisors has power to ordain, make and enforce within the limits of the city and county, all necessary local, police, sanitary and other laws and regulations. (Charter, Ch. 2, Sec. 1 (1).)

(2) Power over structure.

No power is given to the board to organize or create departments or to provide for the appointment of new officers. Such matters are provided in detail under the separate departments.

(3) Police power.**(a) General police powers.**

General police power is granted as above noted under (1) General powers.

(b) Police force and public order.

The board has power to prescribe fines, forfeitures and penalties for the breach of any ordinance; but no penalty shall exceed the amount of \$500 or six months' imprisonment, or both (Ib., Sec. 116); to offer rewards not exceeding \$1,000 for the arrest and conviction of persons who have committed a felony in the city and county (Ib. (21)); to license businesses which operate under police permits (Ib., 15 (see below (f) Fraud, etc.)). The board is authorized to maintain a morgue (Ib. (9)).

(c) Public safety.

Fire.—The board has power to fix fire limits; fire limits once established can be changed only by extension.

Building regulations.—The board may condemn and prevent the occupancy of unsafe structures. (Ib. (6)).

(d) Convenience.

The board has power, except as otherwise provided in the charter, or in the constitution of the state, to regulate and control for any and every purpose, the use of streets, highways, alleys and sidewalks (Ib. (2)); to provide a public pound and to make rules as to animals running at large.

(e) Health.

The board has power in general to ordain and enforce all necessary sanitary laws and regulations (Ib., Ch. 2, Sec. 1 (1)); to provide in the annual tax levy for a special fund to be used in the construction of a general system of drainage and sewerage (Ib., (22)); to acquire and control all appliances for flushing sewers (Ib., (13)); to provide for the abatement and summary removal of any nuisance (Ib., (6)).

(f) Fraud and extortion.

The board may regulate the use of cabs and public passenger vehicles, and fix the rates to be charged for persons and baggage (Ib. (7)); it may license liquor dealers, pawnbrokers, peddlars, junkshop keepers, dealers in second hand goods, auctioneers, and intelligence office keepers (Ib. (15), Art. VIII, Ch. 4, Sec. 7.).

(g) Public morals.

The board may impose license taxes on the liquor business (Ib., Art. II, Ch. 2, Sec. 1 (15)); but most of the business of regulation is vested by the charter in the board of police commissioners. The

supervisors may appropriate fines collected for cruelty to animals, for the use of any society which may efficiently aid in such convictions. (Ib., (19).)

(4) Financial powers.

(a) Debt.

There is no absolute debt limit, either in the charter or in the constitution of the state; the constitution requires, however, that any increase of bonded indebtedness must be preceded by a popular referendum and approval by a two-thirds vote of the qualified voters at a special election (Const. of Cal., XI, 18). The procedure is the same as that specified for the issuance of bonds to acquire public utilities. (Charter, Art. XVI, Sec. 29, as amended, Stats. of Cal., 1903, p. 596.) The city is also forbidden to issue bonds for the acquisition of public utilities to such an amount that the total indebtedness of the city exceeds 15% of the assessed valuation of all real and personal property in the city and county. (Charter, Art. XII, Sec. 10.)

(b) Appropriations.

Estimates of the annual requirements of each department must be sent to the board of supervisors by the heads of departments by the first Monday in April; duplicates are sent to the auditor, who, by the first Monday in May, submits an estimate of the requirements of the whole city for the coming year, including the amount needed for sinking funds and interest, and the amount required for each department and for each fund in the treasury; and also the probable income from fines, licenses and other sources, and the amount which must be raised by taxation. (Ib., Art. III, Ch. 1, Sec. 2.) The supervisors then, between the first Monday in May and the first Monday in June, by a majority vote make up the annual budget. Public hearings must be accorded to persons interested. (Ib., Sec. 3.) Any item in the budget may be vetoed by the mayor; and a vote of fifteen out of the eighteen of the supervisors is required to override the veto. The final adoption of the budget, which must be before the last Monday in June, constitutes an appropriation of the sums estimated therein. (Ib., Sec. 4.) The supervisors are forbidden to authorize or to contract or to become liable for the expenditure in any month of more than one-twelfth of the total annual appropriation for any department. (Ib., Sec. 9.) The supervisors may appropriate \$36,000 as an urgent necessity fund, from which expenditures may be made only by a five-sixths vote of the supervisors, and the approval of the mayor. (Ib., Sec. 8.)

Any ordinance for the expenditure of public money, except in an amount less than \$200, must be published in the official newspaper for five successive days, with the ayes and noes, before final action; but in the case of great necessity, officers with the consent of the mayor may expend sums not exceeding \$200 without ordinance. (Ib., Art.

II, Ch. 1, Sec. 13.) All demands for payment from the city treasury must be preceded by appropriation by the board of supervisors with the following exceptions: Salaries fixed by law, ordinance or the charter; demands against the school fund, which have been approved by the board of education; salaries of employees which have been approved by the head of the department. (Ib., Art. II, Ch. 1, Sec. 19; Art. III, Ch. 3, Sec. 13.)

(c) *Taxation.*

The city tax levy, exclusive of the state tax and the tax to pay the interest on and maintain the sinking fund for the bonded debt and exclusive of the tax for parks and public grounds, must not exceed one dollar in the hundred dollars. (Charter, Art. III, Ch. 1, Sec. 11.) The one dollar tax limit may be exceeded in case of emergency if an ordinance setting forth the nature of the emergency is passed by a unanimous vote and approved by the mayor. (Ib., Sec. 13.) The levy must be made on or before the last Monday in June (Ib., Sec. 11); and must be sufficient to meet the appropriations for the year, less the amounts received from licenses and other sources of revenue (Ib., Sec. 5); and sufficient to meet all the demands on the treasury authorized to be paid. (Ib., Sec. 11.) In making the levy, the supervisors are required to apportion the taxes to the several funds created in the charter. (Ib., Sec. 11.) Every bill or resolution providing for the levying of any tax or assessment must be published in the official newspaper with the ayes and noes for five successive days before final action is taken; if the bill is amended, the bill as amended must be similarly published. (Ib., Art. II, Ch. 1, Sec. 13.) The mayor may veto items in any bill levying taxes. (Ib., Sec. 14.)

(d) *Miscellaneous.*

The supervisors have power to fix the fees and charges of all official services not otherwise provided for in the charter. (Ib., Art. II, Chap. 2, Sec. 17.)

(5) *Streets and public ways.*

The supervisors may fix the width and grade of all streets, etc., and order to be done any and all street work and street improvement. (Charter, Art. VI, Ch. 2, Sec. 1.) But the supervisors are forbidden to order any street improvement of any kind until it has been recommended by the board of public works. (Ib., Sec. 2.) When a street has been improved, it must be accepted by the supervisors by ordinance; whereupon it becomes the duty of the city to keep the street in repair. Streets to be so accepted must have the gas, water, and sewer pipes properly laid; but the supervisors may if they deem such pipes then unnecessary, conditionally accept the streets without pipes, in which case the property on the street is still assessable for the cost of sewers and for restoring the pavement when pipes are laid. (Ib., Sec. 23.) Ordinances

for opening, widening, or straightening streets may be passed by the supervisors upon recommendation of the board of public works. (Ib., Art. VI., Ch. 3, Sec. 6.) The supervisors must cause the streets to be properly cleaned and sprinkled, and for that purpose may employ such laborers and employees as may be necessary; but they must give the preference to hand-sweeping so far as they can do so with reference to the proper sweeping of the streets, and the funds at their disposal. (Ib., Art. VI, Ch. 2, Sec. 29, as amended by Stats. of Cal., 1903, p. 590.) The supervisors have power to acquire, regulate and control all appliances for sprinkling and cleaning streets (Ib., Art. II, Ch. 2, Sec. 1 (13)); to set apart as boulevards any streets over which there is no street railway franchise, (Ib. (25)); to permit the temporary laying of railroad tracks for purposes of street excavation, etc. (Ib. (3)); to empower street railway companies to carry street sweepings and offal to the parks (Ib. (4)); to construct or permit the construction of tunnels under such rules and regulations as the board may prescribe. (Ib., 26.)

(6) Public utilities and public services.

(a) *Franchises in general.*

"It is hereby declared to be the purpose and intention of the people of the city and county that its public utilities shall be gradually acquired and ultimately owned by the city and county."

Whenever the supervisors, by ordinance, determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities by the city and county, or whenever a petition, signed by 15% of the voters at the last general election, is submitted in favor of such acquisition, the supervisors are required to procure plans and estimates of the cost of original construction or completion of the utility or utilities; and within six months from the filing of the petition, the supervisors must have prepared and submitted to the electors a separate proposition for the acquisition of each utility named in the petition or in the ordinance. The mayor may also prepare and submit a proposition for each utility, separate from that prepared by the supervisors. The supervisors must before submitting propositions for original construction or condemnation, solicit and consider offers for the sale to the city of existing utilities. The supervisors may, however, as described below, proceed immediately to acquire a utility, either upon the passage of an ordinance declaring their intention or upon receipt of a petition for the acquisition, without submitting propositions to popular vote.

The propositions prepared by the supervisors and by the mayor must be submitted at a special election. If they contemplate the acquisition of the utilities out of current revenues, a majority of the electors shall be required to adopt; if they involve the issuance of bonds, a vote of two-thirds of the electors voting at the election is necessary. Upon the adoption of a proposition, the board of supervisors must, at as early

a date as they shall deem for the best interests of the city, proceed to acquire the utility.

The board of supervisors may, when any utility can be acquired out of current revenues, proceed to acquire such utility without submitting the question to popular vote, either on their own initiative (in which case the ordinance for the purpose must be duly published) or upon receipt of a petition, described above, in favor of such acquisition. If, however, the utility cannot be acquired out of the annual revenues, and an issue of bonds is necessary, a proposition, specifying the amount of the indebtedness necessary, must be submitted, and two-thirds of the electors voting at the election are necessary to warrant the issuance of bonds.

At an election at which the propositions are voted on no questions shall be submitted except the propositions for the acquisition of public utilities, and the question of incurring indebtedness for the purpose. The contents of the ordinance calling the election, and its publication, are provided for in detail.

No indebtedness may be incurred for the acquisition of utilities, which together with existing indebtedness, exceeds 15 per cent of the assessed valuation of real and personal property.

The form and denomination of the bonds are provided for, and the method of sale. It is provided that the supervisors must levy an annual tax for the payment of interest and sinking fund, which shall be in addition to all other taxes authorized by law.

A neglect or refusal on the part of the supervisors to comply with the provisions of this article constitutes cause for removal from office of any member guilty of such neglect or refusal. (Charter, Art. XII, as amended by Stats. of Cal., 1903, pp. 591-596.)

(b) *Transportation.*

The board of supervisors is authorized to grant street railway franchises for a period not longer than twenty-five years; such franchise must not be granted on boulevards and carriage driveways. When application is made to the board of supervisors, they must determine by resolution whether or not it should be granted, and upon what conditions, in addition to those prescribed in the charter for all franchises. The resolution must be advertised in the official newspaper for ten days; action must be taken by the board not less than 20 days nor more than 30 days after the completion of publication. The resolution must describe the proposed franchise, its term and route; and must request sealed bids, which must be of a percentage of the gross receipts. A bond must be filed with each bid, conditioned upon the faithful observance of all the conditions of the franchise; the total amount of the bond to be liquidated damages for any breach. At the next regular meeting after the date set for the receipt of bids, the board must award the franchise to the bidder who offers the highest percentage of gross receipts; but no franchise shall be granted unless at least 3 per cent is

offered for the first 5 years, 4 per cent for the next 10 years, and 5 per cent for the next 10 years. The supervisors may reject any and all bids.

A three-fourths majority is required to pass any franchise; and at least 90 days must elapse between the introduction and final passage of a franchise. A five-sixth vote is required to over-ride the mayor's veto of a street railway franchise.

All such franchises must provide that the percentage of gross receipts be promptly paid; that the whole road shall be continuously operated, and at the expiration of the franchise the track, roadbed, and stationary fixtures shall become the property of the city; that the grantees shall begin construction within 100 days after the grant, and spend at least \$3,000 per month until completion. Failure to comply with any condition works immediate forfeiture of the franchise and of the road constructed under it. The supervisors have no power to relieve from forfeiture or from compliance with any condition. They must provide that the franchise shall not be renewed or regranted; and that the board shall at all times have the power to regulate the rates of fare to be charged and that the finance committee of the board shall at all times be permitted to examine or have examined by experts the books of the company as to the amount of gross receipts. In granting any such franchise, the supervisors may impose such other lawful conditions as they seem advisable. (Charter, Art. II, Ch. 2, Sec. 6.)

On the expiration of a street railroad franchise, the board of supervisors may lease the property as nearly as possible in the same manner as provided for new franchises. No ordinance authorizing such lease may be passed more than ninety days before the expiration of the franchise. A street railway franchise takes effect 30 days after its signature or passage over a veto, unless a petition of 15 per cent of the voters shall ask for its submission to popular vote; in that case it must be submitted at the next election, and unless it receives a majority of the votes cast on it, it is void. (Ib., Sec. 7.)

The board of supervisors has power to regulate street railroad tracks and cars; to compel the owners of two or more roads using the same streets to use the same tracks; to fix, establish and reduce fares; to regulate rates of speed, and to pass ordinances protecting the public from danger or inconvenience in the operation of the roads. (Ib., Sec. 1 (27).) The board of supervisors has power to permit a steam railroad to enter the city; but no such permission shall be exclusive, and the use of it shall be subject to regulation by the supervisors at all times. The use of streets for this purpose shall be subject to the requirement that the railroad company pave the street from curb to curb with such materials as the supervisors direct; and that other companies be allowed upon proper payment to use the same tracks. (Ib. (28).)

(c) *Gas and electric light.*

Except as otherwise provided in the charter, the supervisors have power to regulate and control the location and quality of all appliances for the furnishing of water, heat, light, power, telephonic and telegraphic service to the city and county. (Charter, Art. II, Ch. 2, Sec. 1 (13).) to fix by ordinance in the month of February each year the rates to be charged for the use of water, heat, light or power supplied to the city and county or to the inhabitants thereof, and to prescribe the quality of the service, (Ib. (14).) No exclusive franchise is permitted for the laying of pipes, wires or conduits. (Ib., Sec. 5.) The finance committee of the board of supervisors has power to examine the records and books of accounts of companies furnishing light or to have them examined by experts as an aid in the fixing of rates for furnishing water Sec. 4.) Franchises for electric power and lighting must be awarded on the basis of competitive bids in terms of a percentage of the gross receipts. (Ib., Sec. 7.)

(d) *Telephones and telegraphs.*

The board of supervisors has power to regulate and control the location and quality of all appliances for furnishing telephonic and telegraphic service, (Ib., Sec. 1 (13).) Telephone and telegraph franchises are not included in this requirement of submission to popular vote (Ib., Art. II, Ch. 1, Sec. 20); nor, apparently, in the requirement of award by competitive bidding. (Ib., Ch. 2, Sec. 7.)

(e) *Water.*

Franchises to water companies must be submitted to popular vote as prescribed above. (See above.) ((a) Franchises in general.) The supervisors have power to regulate and control appliances for furnishing water to the city. (Charter, Art. II, Ch. 2, Sec. 1 (13).) Water rates may be fixed by the supervisors annually in February. (Ib., (14).) The finance committee is authorized to inspect the books and accounts of water companies as an aid in determining rates. (Ib., Sec. 4.)

(f) *Sewers and drains.*

On recommendation of the board of public works, the supervisors may order the construction of such canals, sewers, tunnels, machinery, works, etc., as may be necessary for the proper drainage of the city. (Charter, Art. VI, Ch. 4, Sec. 5.) By a vote of fourteen (out of a membership of eighteen) the supervisors may authorize the purchase of any personal property, or the condemnation or purchase of any real estate necessary for sewers. (Ib., Sec. 6.) The board of supervisors is authorized to provide in the annual tax levy for a special fund to be used in the construction of a general system of drainage and sewerage. (Ib., Art. II, Ch. 2, Sec. 1 (23).)

(g) *Markets and abattoirs.*

No specific powers given.

(h) *Wharves, docks and landings.*

All wharves, water front and harbor, over which the city has jurisdiction are under control of the board of supervisors. (Charter, Art. VI, Ch. 5, Sec. 1.) The supervisors may fix the tolls for wharfage and dockage, or may provide that no charges shall be imposed. They are forbidden to dispose of any wharf, but may lease for a term not exceeding two years. (Ib., Sec. 2.)

(7) **Recreation.**

The supervisors may set aside streets for boulevards (Ib., Art. II, Ch. 2, Sec. 1 (25).) They may provide all necessary moneys for park purposes by an annual tax of not less than five cents nor more than seven cents per hundred dollars of assessed valuation. (Ib., Art. XIV, Sec. 11.)

(8) **Education.**

The supervisors, after the receipt of estimates from the board of education, must levy annually a tax for school purposes not exceeding \$32.50 for each pupil in attendance during the last school year. (Charter, Art. VII, Ch. 5, Secs. 1, 2.) In case of emergencies, the board of education, with the approval of the supervisors and mayor, may make extraordinary expenditures, for which the supervisors may transfer money from other funds, and make up the deficiency in the next tax levy. (Ib., Sec. 3.)

The supervisors are required to levy an annual tax for library purposes of $1\frac{1}{2}$ to $2\frac{1}{2}$ cents on each hundred dollars of the assessed valuation of the property within the city and county. (Art. VII, Ch. 7, Sec. 2.)

(9) **Charities and corrections.**

The supervisors have power to establish and maintain city and county jails, prisons and houses of detention, punishment, confinement and reformation, hospitals and alms houses; to provide places of detention for witnesses and persons charged with insanity apart from criminals and persons charged with crime. (Ib., Art. II, Ch. 2, Sec. 1 (10, 11).)

(10) **Power of amendment.**

The supervisors must, when a petition properly signed is presented to them, submit proposed amendments to the charter to popular vote. (Ib., Art. II, Ch. 1, Sec. 22.)

Washington.

The legislative body of the city of Washington is the Congress of the United States, which is given power by the Constitution "to exercise exclusive legislation, in all cases, whatsoever, over such dis-

trict (not exceeding 10 miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of government of the United States." (Const., Art. 1, Sec. 8, Paragraph 17).

The District Commissioners, however, are given large powers of regulation which approach legislative power. It may be noted that the act for the government of the District (45th Congress, Ch. 180) provides that the commissioners must submit annual estimates of expenses to Congress; of those approved by Congress, one-half are appropriated from the treasury of the United States, and the remainder is raised by taxation in the District. But the maximum limit of taxation on both real and personal property is fixed in the act at \$1.50 per hundred dollars. In strict legal effect, however, this provision is no more than an expression of intention from which Congress may depart in its discretion at any time.

The Municipal Program.

(Note.—The provisions from the Corporations Act of the Municipal Program, adopted by the National Municipal League, relative to the legislative powers of city councils are reprinted below. For convenience of reference they have been arranged under the same heads as used for the various cities previously considered.—Ed.)

(1) General powers.

"Art. II, Sec. 1. The inhabitants of any city incorporated under this Act are hereby constituted a body politic and corporate which shall have perpetual succession, may use a common seal, sue and be sued, and, for any purpose which it deems necessary or expedient for the public interest, perform and render all public services, and acquire property within or without the city limits by purchase, gift, devise, or by condemnation proceedings, and hold, manage, and control the same." (Municipal Program, p. 192.)

"Art. V, Sec. 1. There shall be a City Council which shall have full power and authority, except as otherwise provided, to exercise all powers conferred upon the city, subject to the veto of the Mayor, as hereinbefore provided." (Ib., p. 215.)

"Art. II, Sec. 7. The city shall have power to enforce obedience to and observance of its ordinances and regulations by ordaining reasonable fines, penalties, and terms of imprisonment." (Ib., p. 194.)

(2) Power over the structure of the city government.

"Art. V, Sec. 8. The Council, except as hereinbefore provided, shall have power to establish any office that may in its opinion be necessary or expedient for the conduct of the city's business or government, and may fix its salary and duties; but no city official shall be elected by popular vote except the Mayor and the members of the Council. The incumbents of all offices established by the Council shall

be appointed by the Mayor, as herein provided, except that the Council may elect its own officers." (Ib., p. 218.)

(3) Police.

"Art. II, Sec. 2. Every city organized under this Act shall have power to enact and to enforce all ordinances necessary to protect health, life, and property, to prevent and summarily abate and remove nuisances, and to preserve and enforce the good government, order, and security of the city and its inhabitants. (Ib., p. 193.)

(4) Finance.

"Art. V, Sec. 10. *Council's Power to Regulate Assessments, Levy Taxes and Make Appropriations.* The Council shall provide by general ordinance for the appraisal and assessment of all property subject to taxation and for the collection and enforcement of taxes and assessments and for penalties for non-payment thereof. Such taxes, assessments and penalties shall be a lien upon the property affected thereby until paid.

All taxes shall be levied and appropriations made annually, not more than sixty days nor less than thirty days before the date for holding municipal elections, except such taxes as may be levied and appropriations as may be made to provide for debts already incurred or continuing contracts already entered into. And except, also, in cases of emergency, when on a certificate signed by the Mayor and Controller that such emergency exists, a special appropriation may be made to meet the same.

Subject to the foregoing, and other provisions of this Act, the Council shall have the power to appropriate all money necessary to provide for the expenses of the city government, to make special appropriations and to transfer to a different appropriation the unexpended balance of an appropriation already made, and not needed for the completion of the work for which such appropriation was originally made." (Ib., p. 219.)

"Art. II, Sec. 12. *Taxes.* Within its corporate limits the city shall have the same powers of taxation as are possessed by the State. It may license and regulate all trades, occupations and businesses.

Sec. 13. *Local Assessments.* The city shall have power to make local improvements by special assessment, or by special taxation, or both, of property adjudged to have received special benefit, or by general taxation; the ascertainment and apportionment of the benefits derived from such local improvements shall be made in accordance with State laws. No improvement to be paid for by special assessment or by special taxation shall be undertaken without the consent of a majority in interest and number of the owners of the property to be taxed or assessed, unless the ordinance therefor shall receive on final passage the affirmative vote of three fourths of all the members of the Council and be approved by the Mayor after a public hearing of the persons

interested, of which due notice shall be given by advertisement in the manner to be prescribed by general ordinance.

Sec. 14. *Indebtedness and Tax Rate.* The city shall have power to borrow on the credit of the corporation, and issue bonds therefor in such amounts and form, and on such conditions as it shall prescribe, but the credit of the city shall not in any manner be given or loaned to or in aid of any individual, association, or corporation, except that it may make suitable provision for the aid and support of its poor.

No city shall become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed — per centum of the assessed valuation of the real estate within such city subject to taxation as shown by the last preceding assessment for State or city taxes; provided, however, that in determining the limitation of the city's power to incur indebtedness there shall not be included the following classes of indebtedness: —

(1) Certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, unless the same be not paid within two years from the date of issue; and all certificates of indebtedness and revenue bonds shall be provided for and payable from the taxes levied for the year in which they are issued, and shall never exceed the amount of such taxes;

(2) Or bonds authorized by the affirmative vote of two-thirds of the members of the Council, approved by the Mayor, and approved by the affirmative vote of the majority of the qualified voters of the city voting upon the question of their issuance at the next ensuing city election, for the supply of water or for other specific undertaking from which the city will derive a revenue; but from and after a period to be determined by the Council, not exceeding five years from the date of such election, whenever and for so long as such an undertaking fails to produce sufficient revenue to pay all costs of operation and administration (including interest on the city's bonds issued therefor and the cost of insurance against losses by fire, accidents, and injuries to persons) and an annual amount sufficient to pay at or before maturity all bonds issued on account of said undertaking, all such bonds outstanding shall be included in determining the limitation of the city's power to incur indebtedness, unless the principal and interest thereof be payable exclusively from the receipts of such undertaking. The City Controller shall annually report to the Council in detail the amount of the revenue from each such undertaking and whether there is any and, if so, what deficit in meeting the requirements above set forth.

Provision shall be made at the time of their issue for raising a sum of money, by taxation, sufficient to pay, as it falls due, the interest upon all city bonds not exclusively payable from the receipts of revenue-producing undertakings, and to pay and discharge the principal thereof within ——— years from the date of their issue; but whenever in any year the receipts from any revenue-producing undertaking shall

be sufficient to pay the costs of operation and administration as above defined, and the annual amount hereinbefore required, the tax to pay the interest and provide for the principal of the bonds issued for such undertaking shall not be collected, and the same shall be paid from such receipts.

The amount to be raised by tax for city purposes upon real and personal property or either of them, in addition to providing for the principal and interest of the then outstanding bonded indebtedness shall not in the aggregate exceed in any one year ——— per centum of the assessed valuation of the real and personal estate subject to taxation by such city, to be ascertained as hereinbefore prescribed in respect to the city debt.

(The limitation on indebtedness is intended to be the one provided in the State Constitution. If there is no such constitutional provision, it should be fixed somewhere between five and ten per cent., as appears to be proper.

The time for which a debt may be contracted should not, in the opinion of the committee, exceed thirty years.

Under this section a city may issue long-term bonds, establish and maintain a sinking fund sufficient to provide for their payment at maturity; or it may have the bonds so drawn that a certain number will mature each year and be paid from the tax as collected. By the latter method the city avoids any risk incident to a sinking fund, the loss of interest on money not invested, any premiums it might pay to buy back its own bonds, and the abuses incident to large accumulations of uninvested money (Ib. pp. 197, et seq.).)

(5) Streets.

"Art. II, Sec. 3. Said city shall have power to lay out, establish, open, close, alter, widen, extend, grade, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places, and bridges, to vacate the same, and to regulate the use thereof and to prescribe and regulate the height of buildings adjacent thereto or abutting thereon and the method and style of construction of the same, to vacate and close private ways, and to construct and maintain waterworks and sewers, and to do all things it may deem needful or appropriate to regulate, care for and dispose of sewage, offal, garbage, and other refuse." (Ib., p. 193.)

(6) Public utilities and public service.

Art. II, Sec. 10. *Street and Other Franchises.* The rights of the city in and to its water front, ferries, wharf property, land under water, public landings, docks, streets, avenues, parks, bridges and all other public places are hereby declared to be inalienable except by a four-fifths vote of all the members elected to the Council, approved by the Mayor; and no franchise or lease or right to use the same, either on, through, across, under, or over, and no franchise granted by the city to any private corporation, association, or individual, shall be granted for a longer period than twenty-one years; and, in addition to any other form of compensation, the grantee shall pay annually a sum of money, based in amount upon its gross receipts, to the city. Such grant and any

contract in pursuance thereof may provide that, upon the termination of the grant, the plant as well as the property, if any, of the grantee, in the streets, avenues, and other public places shall thereupon, without further or other compensation to the grantee or upon the payment of a fair valuation thereof, be and become the property of the city, but the grantee shall be entitled to no payment because of any valuation derived from the franchise. Every grant shall specify the mode of determining any valuation therein provided for, and shall make adequate provision by way of forfeiture of the grant or otherwise to secure efficiency of public service at reasonable rates and the maintenance of the property in good order throughout the term of the grant. Every grantee of a franchise from the city rendering service to be paid for wholly or in part by users of such service shall keep books of account and make stated quarterly reports in writing to the City Controller, which shall contain an accurate statement, in summarized form and also in detail, of all financial receipts from all sources and all expenditures for all purposes, together with a full statement of assets and debts, as well as such other information as to the financial condition of such grantee as the City Controller may require. Such reports shall be public records, and shall be printed as a part of the annual report of the City Controller, and said City Controller may inspect and examine, or cause to be examined, at all reasonable hours, any books of account of such grantee. Such books of account shall be kept and such reports made in accordance with forms and methods prescribed by the City Controller, which, so far as practicable, shall be uniform for all such grantees.

The city may, if it deems proper, acquire or construct, and may also operate on its own account, and may regulate or prohibit the construction or operation of railroads or other means of transit or transportation and methods for the production or transmission of heat, light, electricity, or other power, in any of their forms, by pipes, wires, or other means." (Ib., p. 195, 196.)

"Art. II, Sec. 4. *Wharves, Docks, Harbors, and Ferries.* The city shall have power to establish, erect, maintain, lease, and regulate wharves and docks, charge wharfage and dockage, regulate the use of the harbor, and establish, lease, regulate, and operate ferries, and charge tolls and ferriage.

Sec. 5. *Markets, Market-places, and Abattoirs.* The city shall have power to establish, lease, maintain, regulate, and operate markets and market-places and abattoirs." (Ib., p. 193).

(7) Recreation.

See under (5) Streets, above.

(8) Education.

"Art. II, Sec. 8. *Schools, Museums, Libraries, and other Institutions.* The city shall have power to establish and maintain schools, museums, libraries, and such other institutions for the instruction, enlightenment, and welfare of its inhabitants as it may deem appropriate or necessary for the public interest or advantage.

The number, duties, and salaries of teachers and other subordinate officers of such institutions shall be fixed by the officer [or board] in charge of the educational administration of the city.

("The Committee is of the opinion that the local schools should be under local control subject to a State supervision which compels the local standard to be fully equal to the State standard, and that so far and so rapidly as practicable this result should be accomplished. The Committee is aware, however, that there is a great diversity of practice in the different States, and that on account of the deep popular interest in education there is no branch of the public administration which on the whole has been so successful. It has therefore seemed best to leave the elaboration of the provisions of the draft relative to education to be made in accordance with the local conditions of each particular State." (Ib. p. 194.))

(9) Charities and Corrections.

"Art. II, Sec. 6. The city shall have power to establish, maintain, and regulate workhouses, houses of correction, and such other places of incarceration and reformatory institutions, and such hospitals and charitable institutions as it may deem expedient." (Ib., p. 193.)

English Cities.

(Note.—Instead of attempting to enumerate in detail the legislative powers of the councils in London, Manchester and Glasgow, it is deemed more valuable, for the purposes of this volume, to state in general terms the position, from a legislative standpoint, of those English cities which fall under the Municipal Corporations Act of 1882. This includes all the cities of England and Wales excepting London. The latter is omitted as occupying a rather anomalous position and because it presents, in the matter of legislative powers, no valuable principle not illustrated by the cities included in the statement below. The plan also involves the omission of Glasgow and other Scotch cities since the general laws under which English cities are organized and exercise their powers, do not apply to Scotland. However, this omission is less serious than might be supposed, for while the cities of Scotland are, in the main, under separate laws, these laws have practically reproduced the English system. Consequently, in so far as legislative powers are concerned, the council of Glasgow is in practically the same position, both as to the powers which it may exercise, and as to central control, as the council of Manchester or of any other English city set aside from London.

The chief sources from which the powers of English city councils are to be determined are the following: (1) The Municipal Corpora-

tions Act, 1882 (45 and 46 Vict., C. 50); (2) The Public Health Act, 1875 (38 and 39 Vict., C. 55), with its various amendments, ending with that of 1900; (3) the Tramways Act, 1870 (33 and 34 Vict., C. 78); (4) the Housing of the Working Classes Acts (48 and 49 Vict., C. 72; 53 and 54 Vict., C. 70); (5) the Baths and Wash-houses Acts (9 and 10 Vict., C. 74; 10 and 11 Vict., C. 61; 41 Vict., C. 14); the Public Libraries Act, 1892, (55 and 56 Vict., C. 53); (7) the Electric Lighting Act, 1882 (45 and 46 Vict., C. 56), with various amendments since enacted; (8) the Sale of Food and Drugs Act, 1875 (38 and 39 Vict., C. 63), with amendments including that of 1899. In addition to these general statutes recourse must be had, for the powers of particular cities, to their charters and to the various private bills passed by parliament and applying only to the city under consideration. These last correspond to the special legislation once so common in the United States, though the practice has never been abused as it was in this country.—Ed.)

(1) General powers.

The general position of the English city council in the matter of legislative authority is the same as that of city councils in the United States, i. e., it is limited to the powers specifically granted and these are not conferred in general terms but are enumerated in great detail. The field within which the council has been given power to legislate is somewhat wider than that usually left to councils in the United States. However, in many important matters, e. g., police legislation, the general statutes have made such detailed provision that the work remaining for the council is greatly narrowed. In this respect the position of an English city more nearly resembles that of cities in Massachusetts than of any other American instance with which it could be compared.

The general legislative power of an English city cannot be fully understood without taking into consideration the central administrative control over its acts and also the two forms under which its powers are exercised, i. e. (1), as the city council under the Municipal Corporations Act, and (2), as the Urban District Council under the Public Health Acts. Since the personnel of the council is the same in both cases, this distinction would be unimportant but for the fact that the central control is exercised by different authorities in the two cases.

Under the Municipal Corporations Act of 1882, city councils are given power to make "such by-laws as to them seem meet for the good rule and government of the borough and for the prevention and suppression of nuisances not already punishable in a summary manner by virtue of any act in force throughout the borough, and may appoint such fines, not exceeding five pounds (\$25), as they may deem necessary for the prevention and suppression of offences against the same." (45 and 46 Vict., C. 50, Sec. 23.) Two-thirds of the council must be present when by-laws are passed and they do not go into effect until

40 days from the time a copy thereof has been affixed to the town hall. A copy of all such by-laws must also be sent to the Secretary of State and if within 40 days after a by-law is sent, it is disapproved by the King in council, it does not go into effect. (Ib.) The procedure for the passage of by-laws under the Tramways Act is similar to that just given except that notice of the passage of such by-laws must be given by advertisement and instead of being subject to the approval of the King in council, they must be submitted to the Board of Trade, at least two months before going into operation and are not valid if disallowed by the board within that time. (33 and 34 Vict., C. 78, Sec. 46).

A large portion of the powers which may be exercised by the city council is derived from the Public Health Act of 1875 and its numerous amendments. These acts are not only responsible for the authority of the council in matters of health, but for the greater portion of its powers of police legislation of every description, as well as for many powers not properly classified under that head. These acts confer on the council its powers over health; provide for the establishment of inspections of food and buildings; authorize the construction of sewers; give the council power to construct, maintain, control and clean streets and provide for the opening of street surfaces; confer power on the council to construct water works and regulate the water supply in general; authorize the construction of markets and abattoirs, etc., etc. From this partial enumeration some idea may be gained of the extent of the powers conferred by these statutes.

In the exercise of its powers under the Public Health Acts, a council, in the view of the English law, acts not as the city council but as the urban district council for sanitary affairs. It is important that this be kept in mind whenever the British statutes are consulted regarding the position of city councils. If only those powers are attributed to councils which are conferred on them as *city* councils, considerably more than half of their powers will be overlooked. Another result of acting as an urban district council is that by-laws passed in pursuance of the powers conferred by the Public Health Acts, are subject to a central control different from that exercised over those possessed under the Municipal Corporations Act. Councils are given extensive powers of legislation under the Public Health Acts, but the by-laws which they pass cannot become effective until submitted to and confirmed by the Local Government Board. (38 and 39 Vict., C. 55, Sec. 184).

(2) Power over the structure of the government.

Under the Municipal Corporations Act, the council is required to appoint a mayor, clerk, and treasurer, and three auditors are required to be chosen, two by the burgesses and one by the mayor. The Public Health Act of 1875 provides for the appointment of a medical officer of health, surveyor and inspector of nuisances (45 and 46 Vict., C. 50,

Secs. 15, 17-19, 25; 38 and 39 Vict., C. 55, Sec. 189). Aside from these officers, the structure of the government is almost completely in the hands of the council. The council may appoint such other officers as it deems necessary and may discontinue the appointment of any officer at pleasure. (Ib.)

(3) Police Powers.

As has been already indicated the English councils have a wide ordinance power in police matters, derived largely from the Public Health Acts. Without attempting to enumerate these powers, it is sufficient to say that they cover practically every possible matter of police activity. By-laws passed in carrying out these powers are subject to confirmation either by the King in council or the Local Government Board.

(4) Financial Powers.

(a) *Debt.*

Money may be borrowed by an English municipality only for permanent works (45 and 46 Vict., C. 50, Sec. 120; 38 and 39 Vict., C. 50, Sec. 234) and unless the loan is authorized by a special act of parliament, the consent of the Local Government Board is required. (45 and 46 Vict., C. 50, Sec. 106, as amended by Sec. 72 of the Local Government Act of 1888). Works for the construction of which money is borrowed must be necessary for the execution of statutory powers and duties.

Money borrowed for the execution of powers conferred by the Public Health Acts cannot exceed, including all outstanding loans contracted under those acts and other sanitary acts, the annual rental value for two years of the property assessable within the district for which the money is borrowed. When the amount to be borrowed exceeds the annual value for one year, the Local Government Board cannot give its sanction to the loan until one of its inspectors has held a local inquiry and made a report to the Board. Debts created under these acts must either be paid in annual installments of principal and interest or a sum must be set aside every year as a sinking fund and invested in exchange bills or other government securities. The amount of a sinking fund must be sufficient with accumulations to pay off the debt within the time sanctioned by the Local Government Board. When a sinking fund is created the council may apply the whole or a part of it to the payment of the loan at any time but when this is done, provision must be made for paying into the fund each year a sum equivalent to the interest which would have been produced by the sinking fund so applied. (38 and 39 Vict., C. 50, Sec. 234).

If a city owns land, works, or other property for sewage disposal, the council may borrow on the credit of such lands or works and give a mortgage on the property to the person making the loan. Money

so borrowed may be applied to any purpose for which money may be borrowed under the Health Acts. This power to borrow is considered outside the limitation already mentioned if the amount of the loan does not exceed three-fourths of the purchase money of the property mortgaged. (Ib., Sec. 235).

The time for which money may be borrowed depends upon the act from which the authority is derived. Thus loans under the Municipal Corporations Act are limited to 30 years, (Sec. 112); under the Public Health Act, 1875, to 60 years, (Sec. 234); under the Public Works Loans Act, 1875, 20 years. (38 and 39 Vict., C. 89, Sec. 11).

In addition to debt incurred under the general acts discussed above, cities are from time to time authorized by private acts to issue loans for specific purposes. Debt incurred under this special legislation does not, of course, require the approval of the Local Government Board nor of any other central authority. In 1899, the Local Government Board approved of loans to boroughs and urban districts to the amount of about £7,300,000, while parliament, by special acts authorized the same bodies to borrow about £5,000,000 in addition. The time within which the loans authorized by private acts were to be repaid varied from 2 to 25 years. (Redlich, Local Govt. in Eng., Vol. I., p. 390, Note 2).

(b) *Appropriations.*

Appropriations must be for purposes authorized by law. The method by which they are made is almost entirely in the control of the council. The following quotation from one of the most recent and satisfactory works on English local government describes the procedure commonly followed:

"In all boroughs the basis of the annual budget is laid in the committees. Some time before the end of the financial year, each of the standing committees prepares an estimate of its probable requirements of the year. By the regulation of the Sheffield Council, each of these estimates must be ready prepared on or before 4th February. This estimate is sent to the Finance Committee; the Finance Committee collates the reports or estimates sent in by all the other committees. The report of the Finance Committee, together with a copy of the estimates, is forwarded to every member of the Council at least a week before the meeting of the Council in March, and is then brought before the Council in a form arranged by the Finance Committee. The budget then consists, first of an annual estimate of municipal expenditure for the year compiled out of the estimates sent in by the various committees. The estimate of each committee is laid before the Town Council and the chairman of every committee has to justify his estimate to the Town Council if it is challenged. When the estimates are justified and accepted, the chairman of the Finance Committee proposes the second part of the budget, which consists of a series of resolutions authorizing each committee to spend its estimates

for the purposes proposed; and at the same time the chairman of the Finance Committee proposes a rate of so many pence in the pound necessary to meet the expenditure. The financial year for municipal as for imperial purposes ends on 31st March. After that date each committee knows exactly what its last year's expenditure was, and is thus able to make an estimate of expenditure for the coming year. Meanwhile, until the estimates are prepared and the budget passed, a good deal of unauthorized expenditure goes on, often for three or four months. In some towns, *e. g.*, Leicester, in order to avoid this unauthorized expenditure, the estimates are made before 31st March, so that the budget can be brought in and passed at the commencement of the financial year. If such a course be adopted, the estimate expenditure is too much in the nature of guess-work, and there is much objection to laying a rate upon so uncertain a basis. Later in the year supplementary estimates sometimes prove to be necessary, and these have to be brought before the Council for its approval, and placed upon the agenda. When the estimates proposed by a committee have been sanctioned, payments are made by means of a statutory order on the treasurer, which order is usually signed by three members of the Finance Committee, and countersigned by the Town Clerk." (Redlich, *Local Govt. in Eng.*, Vol. I, pp. 321-323).

(c) *Taxation.*

A city council cannot resort to taxation as a means of raising revenue unless the "borough fund" proves insufficient to meet the financial needs. The borough fund is derived from "the rents and profits of all corporate land, and the interest, dividends and annual proceeds of all money, dues, chattels, and valuable securities belonging or payable to a municipal corporation." (45 and 46 Vict., C. 50, Secs. 139, 140, 143). To this must be added the amount realized from fines and penalties. While the statutes apparently make the revenue to be derived from taxation a secondary matter, in practice the greater part of the municipal funds is derived from this source. Taxes or rates are levied on the occupiers of property on the basis of the full annual rental value of the property occupied. (*Ib.*, Sec. 144, (4) and (5).).

In addition to borough taxes proper, the council has power, as the urban sanitary authority, to levy a tax for the purposes of the Public Health Acts. Unlike borough taxes, these are levied on one-fourth of the rental value of agricultural lands, railways and canals, instead of the full rental value. This tax, known as the general district rate, ordinarily constitutes the largest item in the city revenues. There are, beside, local rates levied in most cities under some special or adoptive act. The assessment used for borough taxes is commonly that for poor rate purposes; but if for any reason the council think that the valuation list or poor rate is not a fair criterion of value, they may cause an independent valuation to be made." (*Ib.*, Sec. 144 (6).).

No organization is provided, however, for an independent assessment. The system of tax collection is not uniform. Sometimes the borough and local rates have been collected by the poor law authorities; but the council has power to provide for the collection of the general district rate, under the Public Health Acts, as it sees fit. (Ib., Sec. 145).

Toronto.

(1) General Powers.

The council may by by-law make regulations not specifically provided for by this act, and not contrary to law, for governing the proceedings of the council. and generally such other regulations as the good of the inhabitants of the municipality requires, and may repeal, alter and amend its by-laws, save as by this act restricted. (Consolidated Municipal Act of Ontario, 1903, Sec. 326).

(2) Power over structure.

The council has power to provide for the appointment of "such pound keepers. and such other officers as are necessary in the affairs of the corporation," and for regulating their duties. (Ib., Sec. 537). The council may by a by-law submitted to the people and carried by a majority of the popular vote, extend the term of the council to two years or with like assent it may repeal such a by-law. (Stat. of Ont., 1906, Ch. 34, Sec. 4).

(3) Police power.

(a) *General police powers.*

The police powers of the council are all included under the specific heads below.

(b) *Police force and public order.*

The council has power to establish, regulate and maintain a police force, (Con. Mun. Act, Sec. 548); to appoint night watchmen to be paid by a special tax on occupied property in districts determined by the council, upon petition signed by two-thirds of those who would become taxable for the service, provided they also represent two-thirds in value of the property liable to the charge. (Ib., Sec. 548); to prevent common begging, etc. (Ib., Sec. 586,—10).

(c) *Public safety.*

Fire.—The council may pass by-laws for appointing fire wardens and firemen, and regulating fire companies, property saving companies, etc., (Ib., Sec. 537, Par. 6); for contracting for water for fire purposes, and purchasing fire apparatus, (Ib., Sec. 543); for preventing the construction of wooden buildings within specified limits; for prohibiting the erection of buildings other than with main walls of brick, etc., and roofing them with incombustible material, and to regulate

repairs to existing buildings within defined limits; for regulating fires and lights in stables and combustible places; for conduct of trades dangerous and causing fire; for inspecting wires, regulating chimneys, stoves, or other apparatus dangerous in causing fires; for regulating the removal and deposit of ashes; for compelling the erection of party walls, and the placing of scuttles and ladders; for guarding buildings against fires; for requiring fire buckets; for preventing the spread of fires by pulling down buildings; for compelling assistance at fires; for regulating the burning of stumps and brush; and for providing for the inspection of premises. (Ib., Sec. 542).

Building regulations.—The council may pass by-laws for regulating the construction of buildings (Ib., Sec. 542, Par. 1a); but an act of 1905 (Ch. 22, Sec. 22), empowers the council to authorize the city architect to permit deviations from building regulations; it may regulate repairs to existing buildings, authorize the tearing down, at the cost of the owner, of buildings erected in violation of law, (Ib., Sec. 542, Par. 1d); it may compel the erection of party walls (Ib., 542, Par. 7); provide for the inspection of buildings and premises, (Ib., 542, Par. 11); compel the furnishing of fire escapes and prevent the use of buildings unless fire escapes are provided. (Ib., Sec. 542, Par. 15); provide for inspecting and regulating the construction of scaffoldings, etc., and provide for the safety of workmen, and appoint inspectors of scaffolding (Ib., Sec. 541, Par. 1); regulate the exits of public buildings, churches, theaters, halls, etc., the width of stairways in such buildings, and in factories, warehouses, hotels, and lodging houses, schools, hospitals, etc.; it may also regulate the construction of stairs, etc., strength of walls, beams and supports, and require the approval of plans for such buildings (Ib., Sec. 541, Par. 2); to prevent the obstruction of aisles and exits, and regulate the size and strength of brick walls, beams, roofs, and supports (Ib., Sec. 541, Par. 3); and license and inspect elevators (Ib., Sec. 541, Par. 5). The council may pass general by-laws prescribing the minimum width of streets on which dwelling houses may be erected or occupied, the minimum area of vacant land to be attached to any dwelling house, and the mode of erection of any buildings occupied as dwelling houses within the city or within any areas of the city designated by by-law. A by-law for this purpose must be published before passage (Ib., Sec. 631).

Machinery.—The council may regulate portable steam-engines, and prescribe limits within which unenclosed engines may not be used for saw mills, etc. (Ib., Sec. 542, Par. 18) and regulate boilers, (Ib., Sec. 542, Par. 4.)

(d) *Convenience.*

The council may regulate or prohibit the conveyance of traffic in the public streets and the width of tires; may prohibit heavy traffic and the driving of cattle, etc., in certain streets and may require all

traffic to be in one direction in streets and alleys which are too narrow for vehicles to pass. (Ib., Sec. 559, Par. 5). It may prohibit coasting and tobogganing in the streets (Ib., Sec. 540, Par. 6); regulate and govern, but not license, persons using bicycles and other vehicles not drawn by horses (Ib., Sec. 540, Par. 7); prevent the obstruction and fouling of any street, alley, etc. (Ib., Sec. 557, Par. 1); direct the removal of doorsteps, porches and other structures projecting over streets and sidewalks (Ib., Sec. 557, Par. 2); compel persons to remove snow from roofs and sidewalks (Ib., Sec. 559, Par. 2); regulate cab stands (Ib., Sec. 559, Par. 3); regulate the placing of poles for wires (Ib., Sec. 559, Par. 4); regulate driving on highways and bridges; prevent racing and fast driving, and set apart one or more streets on which fast driving may be permitted; prevent driving or using vehicles on sidewalks (Ib., Sec. 559, Pars. 6 to 9).

(e) *Health.*

Food and drink.—The council may provide for the inspection of milk and meat and the disposal of tainted provisions; the seizure of carcasses of cattle unfit for food; provide measures for securing the purity of bread; for protecting, cleaning, and examining walls, and compelling the use of water from the city water works (Ib., Sec. 550).

Sanitary measures.—It may regulate the construction of private cellars, privies, drains, etc., public lavatories and urinals; the erection and occupation of dwellings in crowded or unsanitary districts; the reporting of contagious diseases, and the enforcement of the general public health act; regulate burials; and prohibit spitting on sidewalks, or in public halls, street cars, etc., (Ib., Sec. 551, 552, 553).

Sewers.—The council has general powers to construct and maintain sewers and to take land for that purpose; and to regulate the level of cellars (Ib., Sec. 554).

Nuisances, etc.—The council has power to prevent nuisances in general; to prohibit the hauling of offensive things by daylight; to regulate trades which may become nuisances; to regulate slaughter houses, gas works, tanneries, or distilleries; to establish public slaughter houses, and prohibit slaughtering elsewhere than in designated slaughter houses; to define areas in which tanneries, rag, bone and junk shops, etc., shall not be maintained; to prevent the smoke nuisance; to prevent the keeping of cows; to prevent charivaries, the ringing of bells, blowing of horns, and the firing of guns and fireworks (Ib., Sec. 586).

(f) *Fraud and extortion.*

The council is authorized to make market regulations; to regulate the selling of grain, meat, farm produce, etc.; to prevent forestalling or monopoly of fresh meats, vegetables and dairy products;

to regulate the purchase of such foods by hucksters, grocers, etc.; to provide for the measuring and weighing of lime, shingles, coal, etc., and to impose penalties for light weight or short measure and to seize and forfeit bread or other articles when of light weight, etc.; to regulate vehicles and vessels in which articles are exposed for sale (Ib., Sec. 580). Many other regulations of this nature may be made by the board of commissioners of police (Sec. 581). The council may regulate the assize of bread (Ib., Sec. 583). The council may fix the license fees for the following occupations, the regulation of which is vested in the commissioners of police; auctioneers, bagatelle and billiard tables, billposters, exhibitions and places of amusement, ferries, hawkers and peddlars (but the license fees for hawkers and peddlars must not exceed maximum limits fixed in the act) intelligence offices, junk and second-hand shops, milkdealers, plumbers, electrical workers, tobacconists, transient traders, victualing houses, laundrymen. It may regulate or suppress runners; regulate and license teamsters, carters, and draymen, drivers of cabs and other vehicles for hire, owners of livery stables, etc., and may prohibit the use of trading stamps (Ib., Sec. 583).

(g) *Public morals.*

The council may prevent indecent placards, vice, drunkenness, profane swearing, and other immorality and indecency; may suppress disorderly houses, and gambling houses, and destroy gambling devices; may prevent horse-racing, indecent exposure, bathing in public waters, immoral plays in theatres, the sale or gift of intoxicating drinks to minors, sparring exhibitions and the like, and may provide for the inspection of public bathing houses (Ib., Sec. 549).

Liquor licenses in Ontario are in the hands of commissions appointed by the lieutenant governor, but the council is given power to restrict the number of tavern or shop licenses which may be issued in any city, to prescribe requirements for the issuance of such licenses, in addition to those fixed by the general law, and to fix license fees higher than those named in the act, provided that any such fee higher than \$200 must be approved by popular vote and cannot be repealed without similar approval (Rev. Stat. Ont., 1897, Ch. 245, Secs. 20, 29, 32, 42).

(4) **Financial powers.**

(a) *Debt.*

The council may pass by-laws for contracting debts for any purpose within the jurisdiction of the council, by borrowing money or otherwise (Ib., Sec. 384). Every by-law for incurring debts must be submitted to popular vote except those for creating certain drainage debts and local assessment debts (Ib., Sec. 389). The duration of bonds issued for railways, harbor improvements, gas or waterworks, sewers, parks, schoolhouses, electric light

works, or electric power and water privileges, must not exceed 30 years. For other purposes the term must not exceed 20 years (Ib., Sec. 384, Par. 4). A special tax must be levied for interest and sinking fund, whenever a debt is incurred (Ib., Sec. 384, Par. 5). Detailed provisions in regard to sinking funds are found in sections 417 and 418; as to the form and details of bonds in Secs. 429-436. The corporation must report annually the state of the city debt to the lieutenant governor through the minister of agriculture (Ib. Sec. 427).

Loans in anticipation of taxes must not exceed 80 per cent of the amount collected for taxes during the preceding year (Ib., Sec. 435, Par. 2).

(b) *Appropriations.*

It is the duty of the board of control to prepare an estimate of the proposed expenditures for the year and certify the same to the council for its consideration. The council is forbidden to appropriate any sums not included either in the annual estimate or in the supplementary estimate certified by the board of control except by a two-thirds vote (Ib., Sec. 277).

The council is authorized to grant bonuses for the following purposes: For agricultural or horticultural societies; for bands of music; for amateur athletic or aquatic sports; for public bathing houses; for free libraries; for taking stock in gas and water companies (provided the assent of the electors is secured), the head of the city corporation becoming in that case a director of the company; for harbors, wharves, docks, etc., with the assent of the electors; for rifle associations and military companies; for roads, bridge and harbor companies; for superannuation and benefit funds for firemen, policemen and other employes; for life-boat associations; for the promotion of manufactures. (The assent of the electors must be secured and no shareholder may vote on the proposition. The city may take security for the fulfillment of the terms.) No industry is to be aided, where one of the same kind exists unaided, and not more than 10 per cent of the total annual tax rate may be used for this purpose (Ib., Sec. 590). No exemption from taxation may be granted for a longer period than 10 years, nor may any property be exempted from school taxes (Ib., Sec. 591).

(c) *Taxation.*

The council has power to levy taxes to pay the expenses of the city; but the levy for one year including school rates and local improvement rates must not exceed two cents on the dollar of actual value (Ib., Sec. 402, Par. 1). If, however, the current annual expenses and the principal and interest of the debt due during the year exceed two cents on the dollar the council may levy such additional rates as may be necessary to meet obligations already incurred; but no more debts may be contracted until the annual rates required to be levied are reduced within the aggregate of two cents on the dollar.

(5) Streets and public ways.

The council has power to open, improve, repair, widen, divert, lease, sell or stop up streets, squares, alleys, etc., and to take lands for the purpose; to set apart carriage ways, boulevards, and sidewalks; to prevent obstructions, and to permit the construction of subways and bridges for cattle (Ib., Sec. 637). Every public road, street, bridge, etc., is vested in the municipality, subject to certain reserved rights of the original owners (Ib., Sec. 601). The city is required to keep streets in repair; and in case of default, the city is civilly liable for injury to any persons by reason of the default (Ib., Sec. 606). The council is forbidden to close any road or highway whereby access to any man's land is cut off except after compensation and provision for some other means of access (Ib., Sec. 629). No road or street may be laid out of a width of more than 100 feet or less than 66 feet (Ib., Sec. 630). No by-law altering a public street or in any way affecting a street may be passed except after due notice and hearing to persons interested (Ib., Sec. 632). The council may encourage the planting of trees on streets by abating the statutory labor requirements at the rate of twenty-five cents for each tree (Ib., Sec. 574, Par. 1); provision is made for protection to the interests of owners if trees are removed, and no tree may be removed or destroyed without the express permission of the municipal council. The council has power to expend money for the purpose of planting trees (Ib., Sec. 574, Par. 2); or they may authorize the park commissioners to plant and care for trees, in which case the park commissioners exercise authority over removals, etc. (Ib., Sec. 574, Pars. 4, 5, 6).

The city may permit areas or openings to be constructed in or under the sidewalks and streets, and may make such annual charge for the privilege as the council may think reasonable and enforce the payment in the same manner as municipal taxes. Such permission or privilege does not create any vested right in an area or opening (Ib., Sec. 639).

The council may set aside bicycle paths; open, improve or close streets across railways; and exercise many other general road powers in common with counties and other road authorities (Ib., Sec. 640).

The council has power to assess the cost of local improvements on real property especially benefited, viz.:

(1) For opening, widening or altering any street, constructing a bridge, culvert or embankment as a part of a street, or constructing a sewer into private land; (2) For constructing or extending a sewer in a street, or for constructing or paving any street or alley, or for resurfacing with asphalt, etc.; or for constructing sidewalks, or for repaving, or for constructing and maintaining boulevards, or for sodding, planting and caring for trees in any street; or if city own water or gas works, or light, heat and power works, it may provide for extending the systems by special assessment (Ib., Sec. 664). All works

paid for by special assessment must be kept in repair by the city at its own expense; and the duty of the city may be enforced by the High Court of Justice, on application of anyone whose property has been assessed for the improvement (Ib., Sec. 666). Improvements may be undertaken either on petition of two-thirds of the property owners, or on the initiative of the council, unless protested against by two-thirds of the property owners.

The council is required to pay the cost of all culverts and surface drainage of streets improved, and the cost of improvement of all street intersections and of streets in front of non-taxable property (Ib., Sec. 664a).

The council is authorized to pass, with the assent of the electors, a by-law dividing the city into districts for street repairing, cleaning, watering, lighting, the cutting of grass, and care of trees, and levy the cost by special assessment on real property according to frontage (Ib., Sec. 682, Par. 3). The same provision may be made for any street on petition of two-thirds of the property owners, representing one-half of the value of the property; or if three-fourths of the council so determine, the cost may be assessed according to valuation instead of frontage. The council may, also, on its own initiative designate certain streets or districts in which such a system shall be applied (Ib., Sec. 686).

(6) Public utilities and public services.

(a) Franchises in general.

Except for telephone and ferry privileges, the council is forbidden to grant and exclusive right to carry on a business in the city (Ib., Sec. 330). Conduits, wires and pipes for municipal waterworks, gas works, electric light, heat and power works, may be constructed by special assessment (Ib., Sec. 664, Par. 3).

(b) Transportation.

Street railway companies may construct, maintain, complete and operate a double or single track railway, upon or along such of the streets in any municipality as the council may by by-law authorize, and over or upon land purchased or leased by the company for the purpose; street railways may be operated by force or power of animals, or by such other motive power as the company thinks proper and as the municipal council authorizes, and companies may construct and maintain all necessary works, appliances, etc. A company may also carry freight, if authorized by a by-law of the city. Any by-law for these purposes must be preceded by notice posted and published in a newspaper, and by opportunity for interested persons to be heard (Ontario R. S., 1897, Ch. 208, Sec. 11, p. 2204). A company and the council may enter into any agreements they may think advisable, relating to the construction of the railway; the time within which the railway shall be commenced, the manner of proceeding therewith and the time of

its completion; the paving, macadamizing, repairing, grading and cleaning of the streets upon which the railway is laid; the construction, opening and repairing of drains and sewers; the laying, repairing or taking up of gas and water pipes in the streets; the location of the railway, and the particular streets along which the same may be laid; the pattern of rails and the gauge of the railway; the time and speed of running cars, sleighs, and other conveyances; the fares to be charged within the maximum set below, and the amount of license (if any) to be paid by the company annually or otherwise (*Ib.*, Sec. 13).

The council of the municipality in which a railway or part of a railway is laid may pass by-laws for facilitating the running of cars, etc.; for regulating the traffic and conduct of all persons traveling upon the streets on which the railway is laid; for exempting the property of the company from taxation for any period not exceeding 10 years; for renewing such exemption for not longer than 10 years; for exempting from taxation for a like period the income of shareholders of the company; for providing for the safety and convenience of passengers, and the conduct of agents and servants of the company; for preventing the constructing or impeding of the ordinary traffic, and for compelling vehicles to give way to cars (*Ib.*, Sec. 25). Fares are limited by general law to five cents for any distance not exceeding three miles, and one cent for each additional mile. With the consent of the council, double fares may be charged at night, and unless the company and the municipality otherwise agree, the company may charge double fares for trips from one municipality into another (*Ib.*, Sec. 26, p. 2208).

No municipal council may grant street railway privileges for longer than 20 years, but at the expiration of 20 years from the time of passing the first by-law which is acted upon, conferring the right of laying rails upon any street, or at such earlier date as may be fixed by agreement, the municipal corporation may after giving six months' notice assume the ownership of the railway and all real and personal property in connection with the working thereof, on payment of the value thereof, to be determined by arbitration. In case the city fails to exercise the right of assuming the ownership of the railway at the expiration of the 20 years' period, the city may exercise such right at the expiration of any fifth year thereafter, upon giving one year's notice to the company. The privileges of the company continue until the ownership is assumed by the municipal council (*Ib.*, Sec. 41).

The city council may, at any time after the right of assuming ownership of the railway has accrued, require that the terms upon which the company continues to operate its road be determined by arbitration, according to methods prescribed by the consolidated municipal act (Sec. 448, et. seq.) The terms so settled, unless the parties meantime agree on other terms, shall be in force for 10 years and at the end of that time another settlement may be made in the same way for another 10 years. The right of the city to assume ownership at the end of each 5-year period remains unimpaired (*Ib.*,

Sec. 43). The city may, after purchasing, transfer its rights at any time to a company authorized to operate a railway, subject to the right of the city to assume ownership at the end of 20 years, or such shorter period as may be agreed upon (Ib., Sec. 45).

The situation of the city of Toronto with regard to street railways is somewhat different from that described in the general law, by reason of the act of 1892 (Stats. of Ontario, 1892, Ch. 99), incorporating the Toronto Railway Company and confirming an agreement which had been made between the city and the company. Under this act and agreement the city, which had previously bought the property of a former street railway company, sold the road and equipment to the Toronto Railway Company, and was authorized to grant a franchise for 30 years and no longer. At the end of that time, the city may, upon 12 months' notice, take over the properties. As soon as notice of the city's intention has been given, the city and company must proceed to arbitrate, in the manner described in the Municipal Act, the price to be paid by the city for "all the real and personal property necessary to be used in connection with the working of the said railways but the city shall only pay for the land conveyed by them to the purchaser, what it is worth without reference to its value for the purpose of operating a street railway or railways." (Ib., p. 907). In determining the value of the property, the rights and privileges granted by the city, and the revenue profits and dividends being or likely to be derived from the enterprise are not to be taken into consideration, but the arbitrators are to consider only the actual value of the actual and tangible property, plant, equipments, and works necessary to the operation of the road; they are to consider only the value of these several particulars to the city at the time of arbitration, having regard to the requirements of a railway of the best kind and of a system then in operation and applicable to the city. If the city does not exercise its rights to take over the property at the end of 30 years, it may do so at the end of any year thereafter upon 6 months' notice. The rights of the company continue until the city exercises its option. If the award has not been completed by the date set by the city to take over the properties, the city may, nevertheless, take possession on payment into court of an amount fixed by a judge of the High Court of Justice. If the award has been made, but either party is dissatisfied, the city may, nevertheless, enter into possession, upon payment into court of the amount of the award (Stats. of Ont., 1892, Ch. 99).

By-laws may be passed by the council for building, equipping and maintaining and operating street railways in such streets and upon such terms as the Railway and Municipal Board may approve; and for leasing the same from time to time on such terms as may be determined on; for levying an annual special rate to defray the yearly interest on the expenditure therefor, and to form an equal yearly sinking fund for the payment of the principal within 30 years; but it is provided that these powers shall not apply to a city in which there

is a street railway constructed or operated under an agreement between the city and the company (Consolidated Mun. Act., 1903, Sec. 569, Par. 1). A municipal corporation which owns and operates a street railway is subject to the law governing Street Railways (Ib., Sec. 569, Par. 2; R. S., 1897, Ch. 208). No by-law for constructing a street railway may be passed except after publication for one month, and approved by popular vote (Consolidated Mun. Act., Sec. 569, Par. 5).

Upon receipt of a petition signed by at least one-fourth of the property owners of a city or a designated portion of a city, representing at least one-third of the value of the property in the city or portion of it, the council may pass a by-law for aiding in the construction of a street railway company by granting money or bonds, and assessing the cost of the real property in the city or portion of it, by annual special tax. Bonds for this purpose must be paid within 20 years (Ib., Sec. 699).

(c) *Gas and electric light.*

By-laws may be passed authorizing gas companies to lay down pipes under streets or public squares, subject to such regulations as the council sees fit (Consolidated Mun. Act., Sec. 566, Par. 3). By-laws may be passed authorizing companies to lay down pipes or conduits enclosing wires for supplying electricity for light, heat and power, or to carry wires across or along streets or squares, and to erect poles where necessary, subject to such regulations as the council may see fit to impose (Ib., 566a). Gas companies are required to secure the consent of municipal authorities before they are entitled to the benefits of the Gas and Water Companies Act (R. S., Ont., Ch. 199, Sec. 17).

The council may pass by-laws for manufacturing and supplying light and heat under the Municipal Light and Heat Act (Consolidated Mun. Act, Sec. 566, Par. 2; R. S., Ont., 1897, Ch. 234.) The corporation of every city has power to manufacture and supply for the use of the corporation and of all persons, gas for heating, cooking, etc., and to manufacture and supply electric or any other artificial light, or heat. For these purposes it may construct, purchase, and conduct works, and sell fittings, apparatus, etc. (R. S., Ont., 1897, Ch. 234, Sec. 3). The powers conferred by this act upon the corporation, for the construction and management of gas works and electric works, may be exercised by the council directly, or the council may provide for the election of commissioners for the purpose. If commissioners are provided for, the council thereafter has no authority in respect to the works (R. S., Ontario, 1897, Ch. 234, Sec. 14; Ch. 235, Secs. 40-47). The council may provide for the levying of an annual special rate to defray the yearly interest and sinking fund charges for the construction of gas and electric works. The principal must be paid not less than 5 nor more than 30 years from date of issue (Cons. Mun. Act., 1903, Sec. 566, Par. 4). The council is forbidden to construct works, if there is a company already in existence, until after it has made an offer for

the purchase of existing works, or secured a valuation by arbitration. The elements to be considered in determining the valuation are prescribed by the act (Ib., Sec. 566, Pars. 4a, b).

Upon application of 5 tax payers, the council may at its discretion permit the use of the name of the city in proceedings for the arbitration of the price at which electricity shall be furnished to private consumers. The city may also of its own motion initiate proceedings for the same purpose (Ib., Sec. 566, Par. 4-a 7).

(d) *Telephones and telegraphs.*

The council may grant from time to time, to any telephone company, upon such terms and conditions as may be thought expedient, the exclusive right within the municipality, for a period not exceeding 5 years at any one time, to use the streets and lanes for the purpose of carrying on a telephone business; but any by-law for this purpose must have the assent of two-thirds of the members of the council (Ib., Sec. 331).

The council has power to construct, purchase, lease, and conduct a telephone business in the city or within two miles thereof and may levy a special annual rate for interest and sinking fund sufficient to meet the cost of the works within 30 years (Ib., Sec. 570).

(e) *Water.*

The council may pass by-laws authorizing water companies to lay pipes and supply water (Ib., Sec. 566, Par. 3).

The council may construct and operate waterworks, under the same conditions as provided above for gas and electric works. In addition many details as to the powers and duties of cities owning waterworks are prescribed in The Municipal Waterworks Act (R. S., Ont., 1897, Ch. 235).

(f) *Sewers.*

The council has full power to construct and maintain a sewer system; the management of the system may be placed in the hands of commissioners, where the system includes the disposal or purification of sewage on a sewage farm by filtration or other artificial means; but any by-law for this purpose must be approved by popular vote (Consolidated Mun. Act, Sec. 554). Sewers may be built or extended by special assessment (Ib., Sec. 664), but in the case of sewers of a larger sectional area than 4 feet the city must pay one-third of the cost (Ib., Sec. 664a).

(g) *Markets and abattoirs.*

The council has power to establish markets and to make market regulations (Ib., Sec. 580); it has power also to establish and carry on the business of cold-storage in connection with the city's market property (Ib., Sec. 331a). The council may establish public slaughter houses (Ib., Sec. 586, Par. 4).

(h) *Wharves, docks and landings.*

The council may open, preserve and improve public wharves, docks, slips, etc.; purchase from any company any harbor within the city, and sell or convey such harbor to any purchaser; erect and rent wharves, piers and docks in harbors, and also floating elevators, derricks, cranes and other machinery suitable for loading, discharging or repairing vessels, and to make various other regulations concerning wharves, docks, etc. (Consolidated Mun. Act, 1903, Sec. 562).

(i) *Miscellaneous.*

The council may grant the use of the streets to pneumatic transit companies (Ib., Sec. 566, Par. 3), or to companies for supplying steam for heat or power (Ib., Sec. 566a).

(7) Recreation.

The council may acquire land for parks, or for places for exhibitions, etc., and pass laws for managing the same (Ib., Sec. 576). It may pass by-laws for setting apart and regulating boulevards (Ib., Sec. 638). Lands fronting on parks or boulevards may be assessed for improvements, but not in excess of benefits (Ib., Sec. 673, Par. 7).

(8) Education.

By-laws may be passed for acquiring land for school sites; for establishing high schools, appointing high school trustees, and aiding high schools; for making grants to the University of Toronto and the Upper Canada College; for supporting certain high school students at universities and colleges, or high schools, and for endowing fellowships in universities; and for establishing schools for artisans and art schools (Ib., Sec. 587).

(9) Charities and corrections.

By-laws may be passed for aiding indigent persons at any public charitable institution; and the city may take security for any such aid to individuals who own real estate; for aiding any charitable institution; for establishing and regulating almshouses, industrial farms, etc.; for the support of the destitute insane; for aid to the Victorian Order of Nurses; for establishing and maintaining consumption hospitals (Ib., Secs. 588-590).

Paris.

"The municipal council regulates by its deliberations the affairs of the commune. It gives its advice whenever such advice is required by the laws and regulations, or when it is demanded by the superior administration. It protests, if there is occasion, against the quota assigned to the commune in the levying of the apportioned taxes. It votes on all subjects of local interest. It makes out each year a list containing a number double that of the assessors and substitute assessors



to be appointed, from which the sub-prefect makes the requisite appointments (French Municipal Code, Art. 61). The council in France, unlike that in Great Britain, does not actually administer the affairs of the city through its committees; it does, however, have important supervisory influence.

Berlin.

The Prussian city council acts under a very broad grant of power. As has been shown above (Part One, I, 2) the city exercises all powers of a municipal nature which are not expressly forbidden; and when the right to exercise a particular power is questioned, the presumption of the law is in favor of the city. As to the distribution of those powers the Prussian law says: "The city council has authority over all city affairs, so far as they are not entrusted exclusively to the administrative board (*Magistrat*). They give their consideration to all matters which are laid before them for that purpose by the supervisory authorities (Board of Control, *Aufsichtsbehörde*). The city council may decide matters other than municipal affairs only when such matters are referred to them by special law, or in particular cases by direction of the supervisory authorities (*Aufsichtsbehörde*)." (*Städte Ordnung*, 1853. Sec. 35.) If the magistracy finds that the council has in any matter exceeded its authority, or acted in any manner contrary to law, it withholds its sanction and refuses to enforce the ordinance. The controversy is ultimately settled by the governor (*Ober Präsident*) of the province of Brandenburg (*Ib.*, Sec. 36). The law also provides that the city council has control over the administration. It is therefore authorized to see to the execution of its decisions and the expenditure of city income. It may for this purpose require inspection of the records of the administrative board, and name committees from its number, upon which the mayor is entitled to name a member from the administrative board (*Ib.*, Sec. 37). Thus, although the law gives the council the power of decision, and makes the administration generally an independent authority, yet the two fields of legislation and administration are not distinct, and the border line between the two is not clear. The administrative board has considerable power of initiative in legislation. The work of administration is supervised by committees not dissimilar to those in British cities, except that they are composed of members of the council and of the administrative board together; there are such committees on buildings, streets and roadways, schools, police, finance, etc. (See Pollard: *A Study in Municipal Government*).

Vienna.

The powers of the municipal council of Vienna have practically the same scope as in Berlin and Paris, i. e., a complete power over all municipal matters. The administrative board (*Magistrat*) has, however, less independent power, leaving the council more nearly supreme than in Berlin.

2. ADMINISTRATIVE POWERS OF CITY COUNCILS.

(1) Power over the personnel of the administration.

(a) *United States.*

The separation of legislative and executive powers, which has come to be characteristic of city as well as state and national governments in the United States, has operated to deprive the city councils of practically all control over the administrative part of the government. In many cases the city clerk is still chosen by the council, but in general the only control which the council retains over the personnel of the administration is the right to approve or reject the mayor's appointments; even this power is lacking in some of the more recent charters and the council is confined almost exclusively to legislative functions.

Baltimore.—Except the comptroller and surveyor, who are elected by the people, the heads of all departments and of all sub-departments, and all municipal officials not embraced in any department, as well as all special commissions or boards are appointed by the mayor subject to confirmation by a majority vote of all the members elected by the Second Branch of the city council. If the Second Branch of the council does not take action upon a nomination within the first 3 regular succeeding sittings after the nomination has been presented to it by the mayor, the persons nominated are considered appointed without the confirmation of the Second Branch (Charter, Sec. 25).

The heads of departments, heads of sub-departments and municipal officers have the sole power of appointment of all the deputies, assistants, clerks and subordinates employed by them (Charter, Sec. 28).

The Second Branch of the council by a majority vote of all the members elected may remove the comptroller from office for incompetency, wilful neglect of duty or misdemeanor in office, upon charges preferred by the mayor, and after the comptroller has had an opportunity to be heard in his own defense (Charter, Sec. 34). The council has no power to remove any other administrative officer except the City Register who is appointed by a joint convention of the two branches of the city council and is removable at their pleasure (Charter, Sec. 35). The heads of departments and sub-departments have the sole power of removal of their subordinates (Charter, Sec. 28).

Boston.—The city council chooses the city clerk, clerk of committees and city messenger by a concurrent vote of the two houses. The mayor appoints all the other principal officers and boards, subject to confirmation by the board of aldermen, and may remove any of them for such causes as he specifies in the order for removal. No appointment made by the mayor can be acted upon by the board of aldermen until the expiration of one week after the appointment has been transmitted to the board.

All officers and boards appoint their respective subordinates and may remove them for such cause as they assign in their order for removal (Mass. Acts and Resolves, 1885, Ch. 266, Secs. 1, 2, 5).

Chicago.—In Chicago, the council has the power of organizing new departments. It may by ordinance, passed by a vote of two-thirds of all the aldermen elected, provide for the election or the appointment by the mayor with the approval of the city council of such officers as they consider necessary and may discontinue any office which they have created.

The council is further empowered to prescribe the duties and define the power of all officers of the city, providing such regulations are not inconsistent with the Act of 1872.

All officers of the city who are not elected by the people are appointed by the mayor by and with the advice and consent of the council. The mayor has power to remove any officer appointed by him on any formal charges; but he must report the reasons for the removal to the council at a meeting held not less than 5 nor more than 10 days after. If the council by a two-thirds vote of all its members disapproves of the removal, the officer is thereupon restored to the office from which he was removed (Ill. R. S. Ch. 24, Secs. 73, 74, 20).

Cleveland.—The department of public safety which has general control of the police and fire departments of the city is appointed by the mayor, with the advice and consent of two-thirds of all the members elected by the council. Other than this, the council neither appoints nor confirms any officer or employe in the city government except those of its own body (Ohio Law for Municipalities, Secs. 123, 146).

Denver.—In Denver, the mayor has the sole power of appointing and removing all boards, commissions and heads of departments which are not elected by popular vote (Charter, Sec. 150).

The only control which the council possesses over the administrative officers is the power to impeach elective officers of which there are a great many in Denver—mayor, sheriff, auditor, assessor, treasurer, clerk, recorder, coroner, superintendent of schools and constables. The board of aldermen, by a three-fourths vote, may prefer articles of impeachment against any of these officers. All impeachments are tried by the board of supervisors and no one can be convicted unless five of the members of the board so vote, in which case the decision is final (Charter, Sec. 163).

Detroit.—Detroit is a city in which the council still retains considerable power of appointment and removal.

The council itself, independently of the mayor, appoints clerks of market, weighmasters, election inspectors, poundmasters, gas inspectors and inspectors of electric light meters; it may also appoint any other officers, deputies and agents that may be necessary and whose appointment it has authorized by prior resolution (Charter, Sec. 86).

All other officers, except those elected, are appointed by the common council on the nomination of the mayor (Charter, Sec. 85). Appointments are made by a majority vote of all the aldermen elected (Charter, Sec. 162). If the mayor fails to nominate or appoint any officer, or the member of any board or commission whose nomination or appointment is vested in him, within 15 days after the expiration of the term of office, the council itself makes the appointment (Charter, Sec. 85).

Any officer holding by appointment may be removed at any time by the council without charge or trial, by a vote of the majority of the members elect, except the controller and receiver of taxes, and the superintendent of the house of correction who may be removed by a two-thirds vote of all the members elect (Charter, Sec. 102).

Officers who are elected, except the mayor and recorder, may be removed by the council for corrupt or willful malfeasance or misfeasance in office or for willful neglect of their duties, by a vote of two-thirds of all the members. Every elected officer sought to be removed must be furnished with a copy of the charges against him and allowed to be heard in his defense, with aid of counsel; in conducting the trial the council has power to issue subpoenas and to compel the attendance of witnesses and the production of papers. If the officer neglects to appear and answer the charges, his failure to do so is considered good cause for his removal (Charter, Sec. 101). Any officer, holding office by election, except the recorder, against whom charges are preferred, may be suspended from office, by a majority vote of all members, until the charges are heard and determined upon. Any officer holding office by appointment may be suspended temporarily by a like vote (Charter, Sec. 103).

The mayor, independently of the council, appoints the corporation counsel (Charter, Sec. 349), commissioner of public works (Charter, Sec. 390), commissioner of parks and boulevards (Charter, Sec. 544); but the two latter may be removed by a two-thirds vote of the members elected to the council, but only upon written charges and an opportunity to appear and defend with the aid of counsel (Charter, Secs. 391, 544).

Galveston.—The Board of Commissioners by a majority vote of all the members has the power to appoint all officers and subordinates in all the departments of the city (Charter, Sec. 8).

Houston.—The city council elects the controller and may impeach him by a majority vote (Charter, Art. VIII, Sec. 1).

The mayor appoints, subject to confirmation by the city council, all heads of departments in the administrative service of the city (Ib. Art. V, Sec. 2).

Any officer whose office is created by ordinance may be removed by the city council (Ib. Art. V, Sec. 2).

New Orleans.—The mayor appoints by and with the consent of the council the commissioner of public works (Charter, Sec. 32), the commissioner of police and public buildings (Ib. Sec. 33), city engineer (Ib. Sec. 34), city attorney (Ib. Sec. 36), city notary (Ib. Sec. 37), board of police commissioners, board of fire commissioners (Ib. Sec. 38), and a board of civil service commissioners (Ib. Sec. 39). Any officer of the city, whether elective or appointive, is removable by the council for malfeasance in office, gross neglect of duty or disability affecting his fitness to discharge the duties of the position. The procedure is as follows: Among the standing committees is a committee of five members called "The Committee of Public Order," which conducts the impeachment of officers of the city. Upon the preferring of articles of impeachment by this committee, or by any six members of the council, or by 20 citizens, or by the mayor, the accused is notified of the charges against him and within 30 days after the notification is put on trial. The council, excepting the 5 members of the "Committee of Public Order," have full power to try all impeachments, and when sitting for that purpose are on oath or affirmation. The mayor presides over the court, except when on trial, in which case the president of the council presides. No person is convicted without a vote of 10 members (10/17) of the council. The mayor has no right to vote in the final judgment. Judgment, in cases of impeachment, does not extend further than to removal from office under the city charter; but the person convicted is liable to indictment, trial and impeachment according to law (Ib. Secs. 80-84). The council itself, without the nomination of the mayor, elects from its members a president, a clerk and a sergeant-at-arms. Any of these may be removed by the council by a two-thirds vote of the members elected (Ib. Sec. 85).

The heads of departments have the right to appoint, by and with the consent of the council, the chief deputy or clerk of their respective departments and may discharge them at pleasure providing they communicate their action to the council at their first meeting thereafter (Charter, Sec. 18).

New York.—The council appoints the city clerk (Charter, Sec. 28), and the commissioners of deeds (Ib. Sec. 58). Other than these, the council of New York has no power of appointing and removing the administrative force of the city. Heads of departments are appointed by the mayor and are removable at his discretion (Ib. Sec. 95).

Philadelphia.—All heads of departments except the director of the department of public safety and the director of the department of public works, not elected by the people, are appointed by the mayor with the advice of the Select Council. The Common Council has no part in the confirmation of the mayor's appointments (P. L. 1885, p. 49; Phil. Digest, Chap. II, Sec. 8). The director of the department of

public safety and the director of the department of public works are elected by a vote of a majority of all the members of the Select and Common Councils in joint session, for a term of 3 years and are subject to removal by a vote of a majority of all the members of the Select and Common Councils in joint session (Laws of Penn. 1905, p. 391).

The mayor may, by a written order to be transmitted to the Select Council giving reasons for his action, remove from office any head of department, director, or other officer appointed by him (P. L. 1885, p. 39; Phil. Digest, Chap. II, Sec. 9).

During the recess of the Select Council the mayor has power to fill all vacancies in offices to which he may appoint subject to the approval of the Select Council at its next session. If an appointment is not rejected within 30 days after the Select Council convenes, it is considered confirmed (P. L. 1885, p. 39; Phil. Digest, Chap. II, Sec. 9).

The council provides by ordinance for all such bureaus, clerks, or other subordinate officers as are required for the transaction of the business of the main departments, but can create no department (P. L. 1885, pp. 39, 40; Phil. Digest, Chap. III, Secs. 2, 3).

The directors or chief officers of departments appoint all subordinate officers and clerks, and may remove them, by written order, giving their reasons therefor, provided the removal is not made for political reasons. The appointment of successors to officers so removed must be confirmed by the Select Council (P. L. 1885, p. 49; 1887, p. 174; Phil. Digest, Chap. III, Secs. 7, 8, 9).

Every head of department, officer or agent of the city who makes default in the rendering of any account or report, or the paying over of any money or bills collected for the city may be dismissed from his office by the councils (P. L. 1856, p. 572; Phil. Digest, Chap. III, Sec. 22).

San Francisco.—In San Francisco, the council has no control over the appointment of the administrative officers. All the officers, who are not elected, are appointed by the mayor, independently of the council and are removable at his pleasure.

The council has, however, considerable power over the removal of elective officers. The mayor may suspend any executive officer whom he considers has failed in his duty, but he must immediately notify the supervisors of the suspension and his reasons therefor. If the board is not in session, he can immediately call a special session. The mayor then presents written charges against the suspended officer and furnishes a copy of them to the officer, who has the right to appear with counsel before the board in his defense. If the action of the mayor is approved by an affirmative vote of not less than 14 members of the board, the suspended officer is removed from office; but if the action of the mayor is not so approved, the officer is immediately reinstated (Charter, Art. XVI, Secs. 18, 19).

✓ **St. Louis.**—In St. Louis, the mayor appoints the city counselor, the district assessors, the superintendent of the workhouse, superintendent of the house of refuge, superintendent of fire and police telegraph, commissioner of supplies, assessor of water rates, police justices, attorney, jailer, commissioners of charitable institutions, a street commissioner, sewer commissioner, water commissioner, harbor and wharf commissioner, and park commissioner. All these appointments require the confirmation of a majority of the members of the council. If the council refuses to confirm the appointment of the mayor, the mayor, within 10 days, nominates another person, and continues to nominate until his nominees are confirmed. If the mayor fails to make another nomination within 10 days from the rejection of a nomination, then the council selects some one to fill the office (Charter, Art. IV, Sec. 9).

All officers appointed by the mayor may be removed by a majority of the elected members of the council, but when an officer is so removed, the mayor may fill the vacancy without the confirmation of the council (Ib. Art. IV, Sec. 8).

Any elected city officer may be removed from office by a two-thirds vote of all the members of the council. Notice of the charges must be given the officer and an opportunity to be heard by counsel (Ib. Art. IV, Sec. 12).

The mayor may remove any appointed officer from office, but he must immediately notify the council of the removal and the causes therefor; such a vacancy can be filled only by the council (Ib. Art. IV, Sec. 7). The mayor may suspend any elected city officer, but he must immediately notify the council of his action. If the council is not in session, he may call a special session. The mayor presents his charges against the suspended officer to the council and to the officer. If a majority of all the members elected sanction the action of the mayor, then the suspended officer is removed from office and a new election is ordered; but if a majority disagree with the mayor, he is reinstated (Ib. Art. IV, Sec. 6).

(Note:—The National Municipal League, in its model corporation act, favors giving the council wide powers for the creation of offices and the organization of the city government. It would also give the council power to choose its own officers and the chief financial officer of the city. Aside from this the League favors placing the power of appointing heads of departments in the hands of the mayor. See Municipal Program, pp. 214, 220.—Ed.)

(b) *Great Britain and Canada.*

England.—The councils of England have complete control over the personnel of the administration. Absolute power in this regard is given them by the Municipal Code—"the council shall from time to time appoint such officers as have been usually appointed in the borough, or as the council think necessary, and may at any time dis-

continue the appointment of any officer appearing to them not necessary to be appointed" (45 and 46 Vict. C. 50, Sec. 19). The councils of England divide themselves into committees, each of which has under its charge some one branch of city administration and which has power, subject to the approval of the council, to appoint, dismiss and direct the officers of the department.

Scotland.—The council shall from time to time appoint such salaried officers as are directed by common law or statute to be appointed, or as the council think necessary. The council may, in the case of all officers appointed by them, require such officer to give such security as they think proper for the due execution of his office. The council shall allow their officers such remuneration as they think reasonable (63 and 64 Vict. C. 49, Sec. 89).

Canada.—(Ontario.) In Ontario, the council appoints the city clerk (Consolidated Municipal Act, Sec. 282), the treasurer (Ib. Sec. 288), assessors and collectors (Ib. Sec. 295), and auditors (Ib. Sec. 300). All officers appointed by the council hold office until removed by the council (Ib. Sec. 321).

All the other administrative officers, heads of departments and sub-departments, clerks and assistants are nominated by the board of control composed of the mayor and four controllers. No head of department or sub-department or other permanent officer, clerk or assistant can be appointed by the council in the absence of nomination by the board of control, except by an affirmative vote of at least two-thirds of the members of the council present and voting; but the council may, by a majority vote, refer any nomination back to the board of control for reconsideration (Ib. Sec. 277 d).

The board of control may dismiss or suspend any head of department, but must report their action to the council. A person removed by the board of control cannot be reappointed or reinstated by the council unless upon an affirmative vote of at least two-thirds of the members of the council present and voting (Ib. Sec. 277 e).

(c) *Continental Europe.*

France.—In France, excepting Paris, the council elects the mayor and his so-called adjuncts or assistants. The number of adjuncts varies in accordance with the size of the commune with 12 as the maximum number. The council then assigns all administrative and executive duties to the mayor and his adjuncts. The mayor appoints to all offices of the commune for which the laws, decrees, orders and ordinances in force at the time do not fix a special law of appointment, and suspends and dismisses the incumbents of these offices (French Municipal Code, Art. 88).

Prussia.—In Prussian cities all the administrative officials, (the burgomaster and his expert assistants) are chosen by the councils.

These administrative officers, as a rule, form a board which jointly assigns the different members to various departments and has general direction over the administration.

Austria.—The Vienna council selects from its own members a burgomaster, a first and second vice-burgomaster and 22 other members who form a stadtrath of 25 members. This stadtrath carries on the details of the administration and selects the appointees for all the offices (Shaw ; Municipal Govt. in Continental Europe, p. 415).

(2) Direct participation in administration.

(a) *United States.*

With the exception of Galveston, there is no large city in the United States in which the council has any direct participation in administration ; the system is characterized by almost complete separation of the administrative and legislative branches of the city government.

Galveston.—The Board of Commissioners have control and supervision over all the departments of the city and to that end have power to make and enforce such rules and regulations as they see fit and proper for and concerning the organization, management and operation of all the departments of the city.

By a majority vote of all the commissioners they designate from among their members—

(1) One commissioner to be known as the "Police and Fire Commissioner," who has under his special charge the enforcement of all police regulations and general supervision over the fire department ; and

(2) One commissioner to be known as the "Commissioner of Streets and Public Property," who has under his special charge the supervision of streets, alleys, public grounds and property of the city, and is charged with the duty of lighting the streets, and keeping the streets, alleys, public grounds and property in a clean and sanitary condition, and also has under his special charge the supervision of all public improvements ; and

(3) One commissioner to be known as the "Waterworks and Sewerage Commissioner," who has under his special charge the construction, maintenance and operation of the waterworks and sewer system and departments of the city ; and

(4) One commissioner to be known as the "Commissioner of Finance and Revenue," who has under his special charge the enforcement of all laws for the assessment and collection of taxes of every kind, and the collection of all revenues belonging to the city (Charter, Sec. 12). The commissioner named as the head of each department audits all accounts or claims against it (Charter, Sec. 13).

(b) *Great Britain and Canada.*

Great Britain.—The English municipal councils have entire charge of municipal administration. They distribute the work of departmental management and supervision among standing committees selected from their own numbers, which they organize and constitute as they see fit. The law requires the creation of a Watch Committee to take charge of the police (45 and 46 Vict. C. 50, Sec. 190); but in all other respects "they may appoint out of their own body such and so many committees, either of a general or special nature, and consisting of such number of persons as they think fit, for any purpose which, in their opinion, would be better regulated and managed by means of such committees; but the acts of every such committee shall be submitted to the council for their approval" (45 and 46 Vict. C. 50, Sec. 22).

These committees have direct management of the administrative departments; they are practically the heads of the different city executive departments and subject to the approval of the council direct the whole work of their respective departments. They select the officers for their departments and control their work. "It is the almost uniform practice to appoint as permanent chiefs or superintendents of departments the most thoroughly qualified men who can be secured, and to hold them responsible to the council, through the standing committees, for the ordinary operation of their respective branches of the municipal service. These towns have, as a rule, undertaken so extensive a range of public activities that the number of their employees is great. But the average of efficiency is also very high. At the head of the police, fire, water, gas, sanitary, park, engineering and other departments are to be found men of special fitness and training, who are elected for administrative ability as well as for expert knowledge, and whose security of tenure, for so long as they deserve it, adds to their faithfulness and usefulness" (Shaw; *Municipal Govt. in Great Britain*, p. 65).

Canada (Toronto).—An important innovation was lately introduced into Toronto with the object of separating the legislative and the administrative functions of the city government. A so-called Board of Control was created, composed of the mayor and four controllers elected from the city at large, and given practical control over the administration of the city.

The Board of Control prepares specifications for and awards all contracts, subject to revision by two-thirds vote of the members of the council present and voting; it inspects and reports to the council upon all municipal works being carried on or in progress within the city; nominates to the council all heads of departments and sub-departments, and other permanent officers, clerks and assistants. The council may not appoint any officer in the absence of such nomination by the board except by an affirmative vote of at least two-thirds of the members of

the council present and voting; it may dismiss any head of department subject to reinstatement by a two-thirds vote of the council; it controls the appointment and duties of subordinate officers in the absence of laws by the council prescribing the mode of appointment. The council may, by a majority vote, refer any report back to the Board of Control for reconsideration (Consolidated Municipal Act 1903, Secs. 276, 277).

(c) *Continental Europe.*

France.—In France, the mayor elected by and from the council, is the executive head of the municipality. He assigns various administrative tasks to his adjuncts who are responsible to him for their work (French Municipal Code, Art. 82). The council itself also appoints a number of standing committees for the general oversight of particular departments. All these committees have the mayor as nominal chairman, but he usually assigns one of his adjuncts to act in his stead—the adjunct in charge of the department in which the committee is interested would naturally be the one assigned by the mayor.

"The standing committees of a French municipal council are of very much less importance than those of an English council. In England the council itself, working through its standing committees, is an administrative as well as a deliberative and financial body. But in France the council assigns all administrative and executive duties to the mayor and his adjuncts. Thus, a standing committee in a French council consults, advises and keeps itself informed and it may exercise a considerable influence over the action of the mayor and his adjuncts; but it does not act of itself. In the French, as in some American municipalities, the mayor is the executive head with powers and duties which would seem to give him almost the position of a dictator. The sharp distinction, however, between the French and American systems lies in the fact that the French mayor is not only a member of the council and the council's presiding officer, but that he and his adjuncts owe their appointments entirely to their fellow councillors" (Shaw, *Municipal Govt. in Continental Europe*, p. 175).

Paris.—Because of the control exercised over Paris by the central government, the municipal council there does not have even as much control over the administration as do the councils of the other cities of France. Paris is the only French city that is without its own mayor, being actually governed by the prefect of the Seine and his colleague, the prefect of police, both of whom are appointed by the general government and are directly responsible to the Minister of the Interior. The prefect of the Seine has control of most of the great departments of the administration while the prefect of police has charge of the police administration. The two prefects have the right of the floor in all meetings of the council, and may bring with them their important assistants, the heads of departments. The prefects, with the aid of their subordinate executive officials, make up the provisional budgets, and

assist in the discussion of all financial questions in the sessions of the council.

Prussia (Berlin).—In Prussia, the administrative officials (chief burgomaster, second burgomaster and 32 magistrates) are chosen by the councils. These officers form the executive council which jointly assigns its members to various departments, and has general control and supervision of the administration, subject in certain matters to the decisions of the city council; but they are, to a large extent, independent of the city council.

Austria.—The council of Vienna has practically complete control over the administration of the city's affairs. It selects a burgomaster, a first and second vice-burgomaster and 22 associates from among its own members to form a *stadtrath* of 25 members. "This stadtrath is really a large standing committee of the council whose business it is to carry on the administration in matters of practical detail. Thus, while the council creates offices to be filled, the smaller stadtrath selects the appointee. It reports everything that it does to the large body, and the burgomaster is always its leading spirit" (Shaw; Municipal Govt. in Continental Europe, p. 416). The executive work of the municipality is carried on by the expert officials who are at the heads of the different departments and are responsible to the burgomaster, who is in turn responsible to the council.

(3) The power of the council to require reports from administrative officers.

(a) United States.

In several of the cities of the United States the council exercises some control over the administrative officers through its power to demand reports, especially from the financial officers.

Chicago.—The treasurer must report to the city council, as often as required, a full and detailed account of all receipts and expenditures of the corporation, as shown by his books up to the time of his report; he must, at the end of every month, and oftener if required, render an account to the council, or such officer as the council may designate by ordinance, showing the state of the treasury at the date of the account, and the balance of money in the treasury (Ill. R. S. Ch. 24, Secs. 95, 97).

When required by the council or by any ordinance of the city, the collector must make a report to the council, or to any officer designated by the council, of all moneys collected by him, of any matter in connection with his office. All his papers, books, warrants and vouchers may be examined at any time by any member of the city council (Ib. Secs. 100-102).

Cleveland.—The board of public safety, at the time provided for the making of reports by municipal officers to the mayor, must make a

report to the council showing the rules in force in the department, the practical effects thereof and any suggestions it may have for the more effectual accomplishment of the purposes of the department. The council may require a report from the board of public safety at any other time it deems necessary (Ohio Law for Municipalities, 1902, Sec. 170).

Directors and officers upon request must furnish the council with any information desired in relation to the affairs of their respective offices (Ib. Sec. 37).

Denver.—The auditor must make a verified statement to the council showing receipts and disbursements and the condition of each fund at the close of business on June 30th of each year, and before January 15th of each year he must make a verified report of the financial transactions of the city and county during the preceding fiscal year (Charter, Sec. 50).

The treasurer must make an annual report of the transactions of his office on or before the second Monday in January of each year, and from time to time such other reports as may be required by the council. Every quarter he must make a detailed verified statement of all his accounts and the state of each fund, showing all moneys received, from what sources and for what purpose, and of all moneys paid out, and to whom and for what purpose (Charter, Secs. 55, 56).

In December of each year the commissioner of supplies must render to the mayor a complete inventory of all city and county property, and this report must be transmitted by the mayor to the council (Charter, Sec. 61).

During the month of January in each year the park commission must make a report to the council of all moneys received and expended in the purchase, improvement and maintenance of parks, showing when, where, how and in what manner the money was received and expended, and what improvements were made during the year (Charter, Sec. 98).

Every year the attorney must make a report covering the last fiscal year, showing all suits commenced and pending in courts of record, the docket number and title, the demand or relief sought, the amount of judgments for and against the city and county, and any other information that may be required by the council (Charter, Sec. 35).

Detroit.—The common council may at any time, by resolution, require from the various officers, boards and commissioners of the corporation, reports and detailed statements of any matter under their control, and it is the duty of all officers, boards and commissioners to comply with the resolution; the common council may, by ordinance, determine the date at which the estimates of officers, boards and commissioners for the next fiscal year must be made (Charter, Sec. 136).

New Orleans.—Every month of each year the comptroller must lay before the council a report of the receipts and expenditures during

the month, giving not only the various items of receipts and expenditures, but a full detail of the names of all persons to whom money has been paid, the amount paid, the number of warrant and the date of the resolution or ordinance authorizing the expenditure (Charter, Sec. 31).

Every week, in the presence of the finance committee of the council and the mayor, the treasurer must cancel all warrants and evidence of claim against the city, which have been paid by him, including his check book, bank book, cash book and all return checks and warrants and evidences of claims against the city paid by him; all receipts taken by him are at all times subject to the inspection of the finance committee of the council (Charter Sec. 31).

At least quarterly the commissioner of public works must make a detailed statement to the council as to the condition of the streets and other matters relating to his department (Charter, Sec. 32).

New York.—Each head of an administrative department of the city must answer all questions put to him by any member of the board of aldermen relating to the affairs of his department, providing he has received 48 hours' written notice (Charter, Sec. 25).

Philadelphia.—Each department must furnish to the councils, or either branch of the council, such information as they may at any time demand in relation to its affairs (P. L. 1885, p. 46; Phil. Digest, Chap. III, Sec. 19).

San Francisco.—On or before the 15th day of January in each year, the civil service commissioners must make a report to the Board of Supervisors showing their acts, the rules in force, the practical effects thereof, and suggestions for the more effectual accomplishment of the purposes of the commission (Charter, Art. XIII, Sec. 15).

St. Louis.—The comptroller must make annual reports to the Assembly on the financial condition and requirements of the city, with careful statements of receipts and expenditures (Charter, Art. IV, Sec. 20).

The books of the treasurer are at all times open to the inspection of any member of the Municipal Assembly (Charter, Art. IV, Sec. 22).

The books, papers, and everything connected with the offices of every department are open for examination and inspection by any member of either house of the Municipal Assembly (Charter, Art. IV, Sec. 47).

All contracts for work for the waterworks of the city must be submitted to the council for approval (Charter, Art. VII, Sec. 3).

The journals and books of the Board of Police Commissioners, required by law to be kept by them, and all documents relating to their office must always be open to the inspection of the Municipal Assembly or of any committee appointed by it for that purpose (Charter, Art. XVI, Sec. 14).

The city counsellor must make any reports in relation to the suits in which the city is interested that may be required by the Assembly (Charter, Art. IV, Sec. 32).

The chief of every department must report annually to the mayor, and these annual reports must be submitted by the mayor, with his message, to the Assembly (Charter, Art. IV, Sec. 47).

(b) *Great Britain and Canada.*

England.—Every officer appointed by the council must at such time during the continuance of his office and in such manner as the council directs, deliver to the council a true account in writing of all the matters committed to his charge, and of his receipts and payments and vouchers, and a list of persons from whom money is due, showing the amount due from each. Every officer must pay all money due from him to the treasurer. If any officer refuses or wilfully neglects to deliver any account or list which he ought to deliver, or to make any payment which he ought to make or after 3 days' notice in writing refuses or wilfully neglects to deliver to the council any book or document which he ought to deliver, a court of summary jurisdiction may, by summary order, require him to make such delivery or payment, or to give such satisfaction as the council requires (45 and 46 Vict. C. 50, Sec. 21).

(4) **Power of investigation.**

In some of the cities of the United States and Canada, the municipal councils have been given power to conduct investigations not only into departments and boards of the city government, but also into other matters in which the city is interested; and have been provided with legal weapons necessary to make such investigations effective.

Denver.—The council, or a committee thereof duly authorized by it, has power to investigate any department of the city and county and the official acts and conduct of any officer, and may compel the attendance and testimony of witnesses and the production of books and documents (Charter, Sec. 17).

Detroit.—The chairman of any committee may administer oaths and take affidavits in regard to any matter pending before it; any committee has power to subpoena witnesses, to compel their attendance and the production of necessary papers in all examinations pending before them; the common council may prescribe and regulate the necessary proceedings, and confer upon the police force of the city, or any officer of the corporation all powers for carrying the above into effect (Charter, Sec. 164).

Houston.—The city council or a committee duly authorized by it, may at any time investigate each and every department of the city

government and the official acts and conduct of the city officials; and for the purpose of ascertaining facts in connection with the investigation, it has the power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as it deems necessary, and to compel the production of books and documents. The failure of anyone to appear when served with notice to do so is deemed contempt and is punishable by fine. Willful false swearing in any investigation or examination is perjury, and punishable as such (Charter, Art. VII, Sec. 9).

New Orleans.—The council or any committee thereof may summon witnesses and compel their attendance and administer oaths; may compel witnesses to testify and to produce books and papers, and may punish them by imprisonment or fine for failure to attend or refusal to testify or produce books and papers. Any person testifying falsely before the council is guilty of perjury and subject to the penalty provided by law (Charter, Sec. 13).

Portland.—The Council, or a committee of the council duly authorized by it, may investigate any board or department of the city government, and the official acts and conduct of any city officer, employee or agent; and for the purpose of ascertaining facts in connection with the investigation has the power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as it may deem necessary, and to compel the production of books, documents and other evidence. Willful or false swearing in such investigations and examinations is perjury and punishable as such under the laws of the State of Oregon (Charter, Sec. 47).

San Francisco.—In San Francisco, there is a finance committee of the council composed of 3 members. This committee has power to investigate the transactions and accounts of all officers having the collection, custody or disbursement of public money or having the power to approve or audit demands on the treasury; it has free access to any records, books and papers in all public offices; has power to administer oaths and affirmations, and to examine witnesses, and compel their attendance before them by subpoena. The committee may at any time visit any of the public offices and make its examinations and investigations without hindrance.

The committee must, at least once in every six months, examine the official bonds of all city and county officers and investigate the sufficiency and solvency of the sureties thereon, and report the facts to the mayor in writing.

In addition to this power to investigate public offices, the finance committee has power to examine the records and books of accounts of all persons, companies or corporations that are required to pay a portion of their gross receipts into the treasury; and likewise, as an aid to the fixing of rates for furnishing water and light to the city and

county, it has the power to conduct expert examination of the books of any and all persons, companies or corporations furnishing water or light.

In the exercise of its functions, the concurrence of 2 members of the committee is sufficient. The committee keeps a record of its proceedings with the names of the witnesses examined and a statement of the evidence taken. If, from the examination made by the committee, it appears that a misdemeanor in office, or a defalcation has been committed by an officer, the committee immediately reports to the mayor, who, if he approves the report, must take such action against the officer as is authorized by law, and may suspend him pending the proceedings. All police officers must execute the orders of the committee (Charter, Art. II, Chap. 2, Secs. 3, 4).

St. Louis.—Either house of the Municipal Assembly has power to compel the attendance of witnesses, and the production of papers relating to any subject under consideration and in which the interests of the city are involved, and has power to call upon any proper officer of the city to execute such process. The President of the council and Speaker of the house, and the chairman of any committee of either house has authority to administer oaths to witnesses (Charter, Art. III, Sec. 31).

Canada.—(Ontario.) In case the council of any municipality passes a resolution requesting the judge of the county court of the county in which the municipality is situated to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of any officer or servant of the corporation, or of any person having a contract with the corporation, in relation to the duties or obligations of the member, officer or other person to the municipality, or in case the council wishes an inquiry to be made into or concerning any matter connected with the good government of the municipality or the conduct of any part of the public business, the judge must make the inquiry desired and report the result and the evidence taken to the council. The council may engage and pay counsel to represent the corporation and may pay all proper witness fees to persons summoned to give evidence; and any person charged with malfeasance, breach of trust or other misconduct may be represented by counsel (Consolidated Municipal Act 1903, Sec. 324).

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(Note:—The National Municipal League would give the council wide powers of investigation as is indicated by the following section from the corporation act of the Municipal Program.

Art. V, Sec. 9. *The council's powers of investigation.*—The council or committee of the council duly authorized by it may investigate any department of the city government and the official acts and conduct of any city officer; and for the purpose of ascertaining

facts in connection with such investigation, shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as it may deem necessary, and to compel the production of books and documents. Wilful false swearing in such investigations and examinations shall be perjury and punishable as such" (Municipal Program, p. 218).

PART FOUR

THE CITY EXECUTIVE

I. THE MAYOR.

1. QUALIFICATIONS, MANNER OF ELECTION, TERM AND SALARY.

(a) *In the United States.*

Baltimore.—The mayor must be 25 years, or more, of age, a citizen of the United States, and of 5 years' residence in the city. He must have paid taxes for 2 years on property in the city to the amount of \$2,000 (Charter, Sec. 16). He is elected by the people for a term of 4 years. In case of vacancy, the president of the Second Branch of the city council becomes mayor for the remainder of the term. During a temporary disability or absence of the mayor, the same officer is acting mayor. The salary is \$6,000 (Ib., Secs. 18, 19, 20).

Boston.—The mayor must be an inhabitant of the city (Mass. Acts and Res., 1854, Ch. 448, Sec. 15). He is elected by the people for a term of 2 years. In case of a vacancy before the last 6 months of his term, a special election is called; if a vacancy occur during the last 6 months, the president of the board of aldermen acts as mayor (Ib., 1895, Ch. 449, Sec. 1). The salary is fixed by the city council by concurrent vote, and may not be less than \$5,000 (Ib., 1885, Ch. 266, Sec. 11). At present it is \$10,000.

Chicago.—The mayor must be a citizen of the United States, a qualified elector, and a resident of the city (Ill., R. S., 1905, Ch. 24, Sec. 14). He is elected by the people for a term of 4 years (Ib., Sec. 193af). If a vacancy occurs more than one year before the expiration of the term, a special election must be called; if less than one year remain, the council elects one of its own number to act as mayor (Ib., Secs. 15, 16). During temporary absence or disability, the council elects one of its members as mayor *pro tem.* (Ib., Sec. 17). Removal from the city vacates the office (Ib., Sec. 18). The salary is fixed by the council in the annual appropriation bill (Ib., Sec. 193ah). At present it is \$7,000.

Cleveland.—The mayor must be an elector of the city. He is elected by the people for a term of 2 years (Ohio Law for Municipalities, 1902, Sec. 129). In case of a vacancy, either permanent or temporary, the president of the council becomes acting mayor (Ib., Sec. 132). The salary is fixed by the city council (Ib., Sec. 126).

Denver.—The mayor must be at least 25 years of age, a citizen of the United States for 5 years, and an elector of the city and county (Charter, Sec. 149). He is elected by the people for a term of 4 years (Ib., Secs. 166, 167, 168). In the case of disability, either permanent or temporary, the president of the board of supervisors succeeds to the duties of mayor (Ib., Sec. 28). The salary is fixed by the charter at \$6,000 (Ib., Sec. 153).

Detroit.—The mayor (like all other city officers) must be a resident elector of the city. He is elected by the people for a term of 2 years (Ib., Sec. 84). If a vacancy occur more than 6 months before the end of his term, the council must order a special election; if less than 6 months remain, the council may, in its discretion, order a special election. During a temporary disability, the president of the council acts as mayor (Ib., Sec. 119). The salary is fixed by the charter at \$5,000 (Ib., Sec. 119).

New Orleans.—The mayor must be at least 30 years of age, a citizen of the State and of the United States and a resident of the city for 5 years prior to his election (Charter, Sec. 22). The mayor is elected by the people for a term of 4 years (Ib., Sec. 3). In case of disability, either permanent or temporary, he is succeeded by the president of the council (Ib., Sec. 76). The salary is \$6,000; and he is forbidden to receive fees of any sort (Ib., Sec. 27).

New York.—The mayor must have the general qualifications prescribed for all city officers, e. g., he must not hold two offices, must not receive a pension from the city, and must not be interested in city contracts (Charter, Secs. 1533, 1549, 1560). He is elected by the people for a term of 2 years (Ib., Sec. 94). In case of temporary or permanent disability, the president of the board of aldermen succeeds; but the latter must not make appointments or removals until the disability of the mayor has continued at least 30 days; nor sign or veto ordinances, until after at least 9 days (Ib., Sec. 23). The salary is fixed at \$15,000 (Ib., Sec. 94); but may be changed by the board of aldermen (Ib., Sec. 56).

Philadelphia.—The mayor must be at least 25 years of age, and have been for at least 5 years a citizen and inhabitant of the State and of the city (P. L., 1885, p. 38; Phil. Dig. Ch. II, Sec. 2). He is elected by the people for a term of 4 years, but he is not eligible for the next succeeding term (P. L., 1885, p. 38; Phil. Dig., Ch. II, Sec. 3). In case of a vacancy, a successor is elected at the next municipal election, occurring more than 30 days thereafter; unless the vacancy occur in the last year of the term, in which case the councils in joint session elect a mayor *pro tem*. (P. L., 1885, p. 38; Phil. Dig., Ch. II, Sec. 4). During a temporary inability or absence, the president of the select council acts as mayor (P. L., 1854, p. 26; Phil. Dig., Ch. II, Sec. 5).

His salary is fixed by the council (P. L., 1854, p. 44; Phil. Dig., Ch. 44, Sec. 2). At present it is \$12,000.

Saint Louis.—The mayor must, like all other officers of the city, have been a citizen of the United States and of the city of St. Louis for at least 2 years, and must possess none of the general disqualifications for office, such as arrears in taxes, interest in contracts, another office, etc. (Charter, Art. IV, Sec. 10). He must be at least 30 years of age (Ib., Sec. 15). A requirement that he be a free holder or property owner was repealed in 1899. He is elected by the people for a term of 4 years (Ib., Art. IV, Sec. 1). In case of the disability of the mayor, the president of the council succeeds (Ib., Secs. 13, 17). The salary is fixed by the municipal assembly; but no salary may exceed \$5,000 (Ib., Art. XVI, Secs. 17, 18).

San Francisco.—The mayor must be an elector of the city and county, and must have been so for at least 5 years. He is elected by the people for a term of 2 years (Charter, Art. IV, Ch. I, Sec. 1). A vacancy, either temporary or permanent, is filled by election by the board of supervisors of one of their number (Ib., Sec. 6). The salary is \$6,000 (Ib., Sec. 1).

(b) *Great Britain and Canada.*

England.—Any person qualified to be elected as a councillor, i. e., any occupier of premises who lives within fifteen miles of the city, is eligible for the office of mayor. The mayor is elected by the municipal council for the term of one year. He receives such remuneration as the council thinks reasonable (45 and 46 Vict. C. 50, Sec. 15). The mayor may from time to time appoint an alderman or councillor to act as deputy mayor during his illness or absence. A deputy mayor may, while acting as such, do all acts which the mayor might do, except that he may not take the chair at a meeting of the council unless specially appointed by the meeting to do so (45 and 46 Vict. C. 50, Sec. 16). In London the presiding officer of the county council is called chairman instead of mayor (51 and 52 Vict. C. 41, Sec. 2 (5)). The Lord Mayor of London, though an important personage socially, has jurisdiction only throughout the limits of the small inner city and has no connection with the county council. There is also a mayor in each of the twenty-eight boroughs into which the city outside of Old London is divided. They are elected by the borough councils for the term of one year from among the aldermen and councillors or persons qualified to serve as such, and receive such remuneration as their councils think desirable.

Scotland.—The officer corresponding to the mayor is called the provost in Scotland. He is elected by the municipal council from among their own numbers, hence any person qualified to be a councillor is eligible for the office of provost. He holds office for 3 years and dur-

ing that time continues to hold office as a councillor. The provost receives no salary (63 and 64 Vict. C. 49, Sec. 56).

Toronto.—The mayor must reside in the city, or within two miles of it; must be a natural born or naturalized subject of His Majesty; a male of 21 years of age or over; and either he or his wife must have a freehold to the value of \$1,000 or a leasehold to the value of \$2,000 (Consol. Munic. Act, Sec. 76). He is elected by the people for a term of one year (Ib., Secs. 95, 95 a, 276 b). In case of vacancy it is in the discretion of the council to elect a successor or to order a new election (Ib., Sec. 95, 216). The salary is fixed by the council (Ib., 320 (1)).

(c) *Continental Europe.*

France.—In France, any taxpayer who is a citizen is eligible to the council, and, as a member of the council, to the mayor's office. The municipal council elects the mayor from among its own members by secret ballot and by a majority of all the votes cast. If, after two ballots, no candidate has obtained a majority of all the votes cast, a third ballot is taken and the election is decided by plurality. In case of a tie, the older candidate is declared elected (French Municipal Code, Art. 76). The term of office is four years. (Ib., Art. 81). The mayors serve without salary, but they are entitled to reimbursement for the expenses which the execution of special mandates makes necessary (Ib., Art. 74).

The mayor may be suspended by order of the prefect of the department for a period of one month, which may be extended to three months by the minister of the interior. But he can be removed only by order of the President of the Republic. Removal involves ineligibility to the functions of mayor during one year from the date of the order of removal, unless the renewal of the municipal council takes place in the meantime (Ib., Art. 86).

In case of absence, suspension, removal or any other hindrance, the mayor is replaced in all his duties by an adjunct, in the order of appointment (Ib., Art. 84).

Paris.—Paris is the only French city that is without its own mayor. The prefect of the Department of the Seine and the prefect of police appointed by the President of the Republic on the recommendation of the Minister of the Interior and responsible to the Minister of the Interior, perform the executive duties of the city, and constitute in fact a dual mayoralty. In case of a disagreement between the two prefects, the disputed question is referred to the Minister of the Interior. The prefect of the Seine receives a salary of 50,000 fr. (\$10,000) and the prefect of police 40,000 fr. (\$8,000). (Décret 23 Septembre, 1872.)

Prussia.—The chief official of a Prussian city is called the burgo-master. There is no residence required for holding the office as is

TABLE II THE MAYOR

	How Chosen	Term	Salary	Presides over Council	Veto and vote for re-pass- age	QUALIFICATIONS				General Qualifications
						Age	Residence	Property	Tax Paying	
Baltimore . .	People	4 years	\$ 6,000	No	Yes $\frac{3}{4}$	25 yrs	5 yrs. in city	\$2,000	On this amount 2 years	Inhabitant of city
Boston . .	People	2 years	10,000	No	Yes $\frac{2}{3}$					Citizen of U. S. Elector in city
Chicago . .	People	4 years	7,000	Yes	Yes $\frac{2}{3}$					Elector
Cleveland . .	People	2 years	Fixed by Council	No	Yes $\frac{2}{3}$					Five years a citizen Elector
Denver . .	People	4 years	6,000	No	Yes $\frac{2}{3}$	25 yrs				Resident elector
Detroit . .	People	2 years	5,000	No	Yes $\frac{2}{3}$					Citizen of U. S.
Galveston . .	People	2 years	3,000	Yes	No	25 yrs	5 yrs. in city			Resident
Grand Rapids .	People	2 years	Fixed by Council, not more than \$2,000	Yes	Yes $\frac{2}{3}$					Citizen of U. S. Voter
Houston . .	People	2 years	4,000	Yes	Yes			Owner of real estate 2 years		Citizen
New Orleans .	People	4 years	6,000	No	Yes $\frac{2}{3}$					
New York . .	People	2 years	15,000	No	Yes ¹ $\frac{2}{3}$ or $\frac{3}{4}$	30 yrs	5 yrs. in city			

TABLE II THE MAYOR—CONTINUED

	How Chosen	Term	Salary	Presides over Council	Veto and vote for re-passing	QUALIFICATIONS				General Qualifications
						Age	Residence	Property	Tax Paying	
Philadelphia	People	4 years	\$12,000	No	Yes $\frac{1}{2}$	25 yrs	5 years in city and state			Five years
San Francisco	People	2 years	6,000	Yes	Yes $\frac{1}{2}$		5 yrs. in city			Two years a citizen of U. S.
St. Louis	People	4 years	Fixed by council not over \$5,000	No	Yes $\frac{2}{3}$		2 yrs. in city			Resident and subject
Toronto	People	1 year	Fixed by council	Yes	No	21 yrs		\$1,000 Freehold or \$2,000 Leasehold		Residing within 15 miles of city
English cities (Except London)	By Council	1 year	Fixed by council	Yes	No					Same as for councillor
Scotch cities	By council from its members	3 years	None	Yes	No					Member of Municipal Council. Taxpayer
French cities (Except Paris)	By council from its members	4 years	None, except special expenses	Yes	No					Professional training for administration
Paris ²	By President of France	12 years in large cities	\$10,000 and \$8,000	No	No					
Prussian cities	By council	life in small	Mayor of Berlin \$7,500	No	No					
Vienna	By council from own number	6 years	House and allowance by council	Yes	No					

1. If the vetoed ordinance is one involving the expenditure of money, the creation of a debt or the laying of an assessment, a three-fourths vote is required. For all other ordinances a two-thirds vote is sufficient to repass over a veto.

2. In Paris there is no officer chosen as Mayor. The duties of the office are performed by the prefect of police and the prefect of the Seine, who are appointed by the central government.

usual in the United States; in fact, the burgomasters of the large cities are often called from other places where they have done efficient service. But the burgomaster must be a person who has taken the professional training for administrators. He is chosen by the council for a term of twelve years in the large cities, and for life in most of the smaller cities. In the large cities, also, the burgomasters are usually reappointed at the end of their terms and their tenure is practically for life, unless they forfeit their positions by their own misconduct. The mayor of Berlin receives \$7,500 per annum.

Austria.—In Austria, the burgomaster is chosen by the council from among its own members for a term of six years. A first and second vice-burgomaster are also named for three-year terms. The burgomaster is provided with a residence in the city hall and is remunerated to whatever extent the council may choose to vote him allowances, the office not being a salaried one.

2. THE RELATION OF THE MAYOR TO THE COUNCIL.

(1) Power over the organization of the council.

(a) *The United States.*

The chief points at which the mayor may touch the organization of the council are (1) the power to appoint committees, (2) the power of presiding, and (3) the power of filling vacancies in the membership of the council.

In none of the larger cities of the country does the mayor appoint the committees of the council, although the practice is common in smaller cities. Among the larger cities, the mayor presides over the council only in Chicago (Ill. R. S., Ch. 24, Sec. 19), in Grand Rapids (Charter, Sec. 30), in San Francisco (Charter, Art. IV, Ch. 1, Sec. 5), and in Galveston and Houston, Texas. As to the third point, the mayor of Denver, with the concurrence of the branch concerned, fills vacancies in either branch of the council (Charter, Sec. 31); in St. Louis he orders elections to fill vacancies, provided as much as three months of an unexpired term remains (Charter, Art. 3, Sec. 7). In addition, the mayor of New Orleans has the right of the floor in the council and may participate in its proceedings, but has no vote (Charter, Sec. 27), while in San Francisco all ex-mayors still in the city have the same right. (Charter, Art. II, Ch. 1, Sec. 2.)

(b) *Great Britain and Canada.*

Great Britain.—At every meeting of the council the mayor, if present, is the chairman. In case of equality of votes, he has a second or casting vote (45 and 46 Vict. C. 50, second schedule, Secs. 9, 11). He has certain routine powers and duties that naturally fall to a presiding officer, but he appoints no committees and exercises

no power over the organization of the council. (45 and 46 Vict. C. 50, Sec. 22.)

Canada (Toronto).—The mayor, when present, presides at meetings of the council and may at any time summon a special meeting. The head of the council, except when he is disqualified by reason of interest or otherwise, may vote with the other members on all questions. (Consolidated Municipal Act, 1903, Secs. 270, 274.)

(c) *Continental Europe.*

France.—The mayor, or in his default his substitute, presides over the council in all cities except Paris. In the sessions in which the official statements of the mayor are debated the council elects a presiding officer. (French Municipal Code, Art. 52.)

The council of Paris elects a president. The city has no mayor, the executive functions of that office being divided between the prefect of the Seine and the prefect of police.

In all the cities of France the council chooses its own committees, but, except in Paris, they are convened by the mayor, who is ex-officio president of all committees. (Ib., Art. 59.)

Prussia.—Under the Prussian system the mayor is neither a member nor the presiding officer of the council. He has no power over the council's organization.

(2) **Power of the mayor over legislation.**

(a) *United States.*

Baltimore.—The mayor is required to report to the council annually on the general state of the city, including the city finances. (Charter, Sec. 22.) The mayor has the veto power, subject to repassage by a three-fourths vote of each branch. An ordinance becomes valid after five days if not vetoed. The mayor may veto items in an appropriation ordinance. (Ib., Sec. 23.)

Boston.—The mayor may veto any ordinance or vote requiring concurrent action, and any vote of either branch of the council which involves the expenditure of money; subject to repassage by a two-thirds vote of each branch. (Mass. Acts and Res., 1854, Ch. 448, Sec. 47.) He may veto items of appropriation and tax ordinances. (Mass. Acts and Res., 1885, Ch. 266, Sec. 9.)

Chicago.—In case of a tie, the mayor gives the casting vote. The mayor annually and from time to time gives the council information as to city affairs, and recommends such measures as he deems expedient. (Ill. R. S., Ch. 24, Sec. 25.) The mayor has the veto power, subject to repassage by a two-thirds vote. He may veto items of an appropriation bill. There is no pocket veto. (Ib., Secs. 46, 47.)

When an ordinance is returned to the council by the mayor without his approval he may submit a substitute ordinance for the one vetoed. In such cases, if after it has been voted to reconsider the vote by which the original ordinance was passed, no motion is made to pass the original ordinance over the mayor's veto, or if such a motion is made and is not carried, the substitute ordinance may at once be considered unless two aldermen demand its reference to a committee. But when such a demand is made the ordinance must be referred unless two-thirds of the members of the council vote in favor of immediate consideration. If a substitute ordinance receives the affirmative vote of a majority of the aldermen present and voting it takes effect in lieu of the vetoed ordinance. (Ib., Sec. 193 a o.)

Cleveland.—The mayor may veto ordinances, or items in an appropriation ordinance, subject to repassage by a two-thirds vote. There is no pocket veto. (Ohio Law for Municipalities, 1902, Sec. 125.)

Denver.—The mayor is required to make communications to the council from time to time, relative to the condition of the city and county, and to recommend such measures as he deems expedient. (Charter, Sec. 25.) When an ordinance or resolution is passed requiring any administrative or executive function to be performed, and neglecting to designate the department or officer who is to perform the duties, the mayor assigns them to the proper department. (Ib., Sec. 16.) The mayor has the veto power, including that over items in an appropriation ordinance, subject to repassage by a two-thirds vote of each board. There is no pocket veto. (Ib., Sec. 15.) During the temporary absence or disability of the mayor the acting mayor is forbidden to approve or veto any ordinance until the last day upon which it could be done by the mayor. (Ib., Sec. 28.)

Detroit.—The mayor has power, in his discretion, to report to the council any violations of the laws and ordinances of the city; and it is his duty to give the council information from time to time, and to recommend any measures he thinks expedient. (Charter, Secs. 118, 301.) All ordinances, etc., imposing taxes or assessments, or involving the expenditure of money or the disposal of property, or the incurring of any debt or liability, except resolutions making appointments to and removals from office, and except ordinances and resolutions for the fixing of the annual estimates and salaries, and for the payment of debts duly contracted, may be vetoed by the mayor, subject to repassage by a two-thirds vote. There is no pocket veto. (Ib., Secs. 149, 150, 151.)

Galveston.—The mayor is a member of the board of commissioner and votes on all questions. He has no veto. (Tex. Special Laws, 1903, Ch. 37, Sec. 12a.)

Houston.—The council is forbidden to pass an ordinance at the meeting at which it was introduced; but in case of emergency, when the mayor requests such action in writing, this prohibition does not apply. (Special Laws of Texas, 1905, Ch. 17, Art. VII, Sec. 6.) The mayor makes up the annual budget, and transmits with it the departmental reports for the preceding year. (Ib., Art. VI, Sec. 8.) The mayor has the veto power, subject to repassage by a majority vote (the mayor himself having the right to vote on the question). He may veto items in an appropriation ordinance. (Ib., Art. VI, Sec. 6.)

New Orleans.—The mayor reports to the council monthly on the affairs of the city. (Charter, Sec. 27.) He has the veto power, subject to repassage by a two-thirds vote. The mayor has the pocket veto. He may veto items in ordinances making appropriations, or fixing the number or salary of employees. (Ib., Sec. 28.)

Franchise ordinances, after having been passed by the council and approved by the body of five administrative officers, as described above (see Part Three, IV, 1 (6)), may be vetoed by the mayor, subject to repassage by a vote of two-thirds of the members of the council, and four of the five officers. (Ib., Sec. 86.)

New York.—The mayor is required to report to the board of aldermen each year upon the finances, government and improvements of the city, and to recommend such measures as he thinks expedient. (Charter, Sec. 115.) He may veto any ordinance or resolution, or, if the ordinance treats of two or more distinct subjects, he may veto any one of those parts. For ordinary ordinances, the veto may be overridden by a two-thirds vote of all the members elected; ordinances involving the expenditure of money, the creation of a debt, or the levying of an assessment require a three-fourths vote; in case of grants of franchises, the mayor's veto is final. (Charter, Sec. 40.)

Philadelphia.—The mayor may veto any ordinance, subject to repassage by a three-fifths vote of each branch. (P. L., 1874, p. 232; Phil. Dig., Ch. II, Sec. 32.) He may veto items in an appropriation ordinance. (P. L., 1885, p. 39; Phil. Dig., Ch. II, Sec. 31.) There is no pocket veto. He may veto ordinances in vacation, and call special meetings of councils to consider them. (P. L., 1854, p. 26; Phil. Dig., Ch. II, Sec. 30.)

St. Louis.—The mayor transmits the annual departmental reports to the assembly. (Charter, Art. IV, Sec. 47.) He has the veto power, subject to repassage by a two-thirds vote of each house. He may veto items in appropriation ordinances. (Ib., Art. III, Secs. 23-25.)

San Francisco.—The mayor has the veto power, subject to repassage by a vote of 14 out of the 18 supervisors (seven-ninths).

There is no pocket veto. (Charter, Art. II, Ch. I, Sec. 16.) He may veto items in appropriation or tax ordinances (Ib., Art. II, Ch. 1, Sec. 14); and such items when vetoed require a five-sixths vote for repassage. (Ib., Art. III, Ch 1, Sec. 4.) The mayor may postpone final action on a franchise until it has been submitted to popular vote. (Ib., Art. IV, Ch 1, Sec. 3.) A franchise ordinance requires a five-sixths vote to override a veto. (Ib., Art. II, Ch. 2, Sec. 6.)

(b) *Great Britain and Canada.*

Great Britain.—The mayor of an English city has no veto upon ordinances or by-laws of the council. "He is, then, to be regarded simply as the presiding officer of the council, with special dignities attached to his office. He serves on council committees, and commonly holds a chairmanship or two. When his term in the chair is over, he usually goes right on with his duties as alderman, probably continuing at the head of the committee for the work of which he is best qualified. When essentials are considered, the American functionary who corresponds to the English mayor is the president or chairman of the common council. And even that comparatively unpretentious officer has greater power than the English mayor, for in many, if not in all, of the American cities he makes up the council committees according to his own fancy, and thus exercises a work of administration in the various departments." (Shaw, *Municipal Govt. in Great Britain*, p. 61.)

Canada (Toronto).—The power which the mayor of Toronto has over legislation he exercises only as a member of the board of control. The board prepares the annual estimates, and expenditures outside of the estimates can be authorized only by a two-thirds vote of the council. The board awards contracts; and the council cannot vary the specifications and awards of the board in such a way as to increase the cost to the city, except by a two-thirds vote. The board may submit proposed by-laws to the council. (Cons. Munic. Act, 1903, Sec. 277 (a), (b), (f).)

(c) *Continental Europe.*

France.—In France the mayor has no veto power over the acts of the council, but he has the special duty of preparing the provisional budget for the consideration of the council, and of enacting police ordinances without the approval of the municipal council. The budget of each community is prepared by the mayor, voted by the municipal council, and approved by the prefect. (French Municipal Code, Art. 145.) When the mayor's official statements are being debated he may participate in the discussion, but must retire when a vote is taken thereon. (Ib., Art. 52.)

The mayor issues orders for the purpose of ordering local measures on the matters entrusted by law to his vigilance and his

authority, and of publishing the laws and police regulations and calling the attention of the citizens thereto. (Ib., Art. 92.)

In Paris, the municipal council elects its own president and has its own interior organization. The two prefects have the right of the floor in all meetings and may always demand a hearing. They may also bring with them their important assistants, and heads of working departments. The prefects, with the aid of their subordinates, make up the provisional budgets and assist in the discussion of all financial questions in the sessions of the municipal council. As regards part of the budget, including the police estimates, the law requires that the council vote the sums asked.

Prussia.—The mayor, himself, has little control over the legislation of the council; but the board of magistrates, of which he is the head, have very marked powers. In fact, the board constitutes a sort of permanent cabinet whose duty it is to prepare the business for the consideration of the city council. They have definite authority in certain matters. They may suspend the ordinances passed by the city council, in case they regard them as contrary to the general laws or contrary to public interest, until the higher authorities can pass upon the question.

3. RELATION OF THE MAYOR TO THE ADMINISTRATION.

(1) Power of appointment and removal.

(a) *United States.*

Baltimore.—In Baltimore the appointing power is centralized in the hands of the mayor. The comptroller, elected by the people, is the only important executive officer chosen independently of the mayor. The mayor has the sole power to appoint all heads of departments, heads of sub-departments, municipal officers not embraced in a department, and all special commissioners of boards, subject to confirmation by a majority vote of all the members elected to the Second Branch of the council; provided, the Second Branch takes action on the nomination within its first three regular succeeding sittings after such nomination is sent in by the mayor. If the Second Branch fails to take action within that time, then the person or persons become officers without confirmation. If the Second Branch refuses to confirm a nomination, within the next three regular succeeding sittings after it is received, the mayor sends in another name. This procedure is continued until a confirmation is obtained.

During the first six months of their terms the mayor may remove at pleasure the heads of all departments or members thereof, heads of sub-departments or members thereof, municipal officers and all others appointed by him. After six months the mayor can remove such officials only for cause, after charges have been pre-

ferred against them and notice has been given and a trial had before the mayor. All vacancies occurring in any of the offices which the mayor is empowered to fill during the recess of the Second Branch are filled by the mayor until the next regular meeting of the Second Branch, when he must present for confirmation the name of a person to fill the vacancy.

The mayor, in appointing heads of departments, sub-departments, boards and commissions composed of more than one person, must appoint a minority of the members from a different political party from those forming the majority. In ascertaining the political party from which the minority representatives are to be taken, he selects from that party which cast the next highest vote at the preceding election.

The heads of departments, heads of sub-departments, municipal officers not embraced in a department, and all special commissions or boards have the sole power of appointment and removal at pleasure of all deputies, assistants, clerks and subordinates employed by them. (Charter, Secs. 25, 28, 30.)

Boston.—With the exception of the city clerk, and city messenger, who are chosen by the council, and the street commissioners, elected by the people, the mayor, subject to confirmation by the board of aldermen, appoints all important executive officers who are chosen locally. The police department is under a metropolitan board appointed by the governor, who also appoints the pilot commissioners and medical examiners. The mayor may remove any officer whom he appoints for such cause as he deems sufficient and assigns in the removing order.

No appointment can be acted upon by the board of aldermen until the expiration of one week after it has been received by them. All officers and boards appoint their subordinates, and may remove them for such cause as they deem sufficient and assign in their order for removal. (Mass. Acts and Resolves, 1885, Ch. 266, Secs. 1, 2, 5.) However, this power is considerably modified by the city civil service law of Massachusetts. (See Part Four, II, 1 (4).)

Chicago.—In Chicago the city clerk, attorney and treasurer must be elected by the people. (Ill. R. S., Ch. 2, Sec. 49.) The council may by ordinance provide for the election by the people or appointment by the mayor of any other officers deemed necessary. (Ib., Sec. 73.) Under this power the council has provided for the organization of the city departments, and, except the elective officers above mentioned, has in every case given the mayor the power to appoint the heads of departments subject to approval by the council.

The mayor may remove any officer appointed by him, on any formal charge, whenever he is of the opinion that the interests of the city demand such removal, but he must report the reasons for the removal to the council at a meeting to be held not less than

five days nor more than ten days after such removal. If the mayor fails, or refuses to file with the city clerk a statement of the reasons for a removal, or if the council by a two-thirds vote of all its members disapproves of the removal, the officer is thereupon restored to the office from which he was removed, but he must give new bonds and take a new oath of office. No officer can be removed a second time for the same offense. (Ib., Sec. 20.)

Cleveland.—The principal administrative officers of Cleveland are elected directly by the people. The members of the Department of Public Safety, however, in whom are vested all the powers over the police and fire departments of the city, are appointed by the mayor, with the advice and consent of two-thirds of all the members elected to the council. Not more than half the number of directors of public safety may belong to the same political party, and in making appointments or filling vacancies the mayor must conform to this requirement. If any vacancy in the board is not filled within thirty days after it occurs, then the governor of the state fills the vacancy. The chiefs of the police and the fire departments are appointed by the mayor from the classified list of their departments.

The mayor may prefer charges with the council against any director of public safety for incompetence, neglect of duty, malfeasance in office, habitual drunkenness or gross immorality. Upon such charges being filed it is the duty of the council to inquire into them in the manner provided for the removal of other officers of the municipality. The mayor has the exclusive right to suspend the chief of the police department or the chief of the fire department for reasonable and just cause. If either of these officers is suspended, the mayor must certify such fact, together with the cause of suspension, to the board of public safety, which renders final judgment. (Ohio Law for Municipalities, 1902, Secs. 146, 147, 149, 152.)

The mayor also appoints the members of the board of health. (Ib., Sec. 187.)

Denver.—In Denver boards, commissions and heads of departments are appointed by the mayor without the confirmation of the council. (Charter, Sec. 150.) The mayor may remove the commissioner of excise, the commissioner of police, the commissioner of public works, the commissioner of fire for any cause not political, provided that the charges are in writing and are served on the officer at least ten days before the hearing thereon, and provided, further, that the officer is permitted to appear in person and by an attorney and present his defense. Pending the hearing, the mayor has power to suspend the commissioner. (Charter, Secs. 64, 82.) No mention is made of the removal of other officers by the mayor.

Whenever a vacancy occurs in any appointive office, it is filled by the mayor, as in the case of an original appointment, with the

same power of suspension or removal. Whenever a vacancy occurs in either board of the council, it is filled by the mayor, by and with the consent of the board in which the vacancy happens. When a vacancy occurs in any other elective office, it is filled for the remainder of the term by the mayor, by and with the consent of the board of supervisors. (Charter, Sec. 31.)

Detroit.—The mayor nominates and the common council appoints a comptroller and a receiver of taxes (Charter, Sec. 85), a corporation counsel (Ib., Sec. 349), a public lighting commission (Ib., Sec. 336), a board of public works (Ib., Sec. 367), a board of fire commissioners (Ib., Sec. 404), a board of poor commissioners (Ib., Sec. 501), an inspector of the house of correction (Ib., Sec. 713), a board of assessors (Ib., Sec. 212), a board of building inspectors (Ib., Sec. 850), a board of gas commissioners (Ib., Sec. 834), and a commissioner of police (Ib., Sec. 659).

If the mayor fails to nominate or appoint any officer, or the member of any board or commission, whose appointment or nomination is vested in him, within fifteen days after the expiration of the term of office or after a vacancy occurs, the common council makes the appointment.

The mayor has no power to remove officers appointed by him, such power being vested wholly in the council. (Charter, Sec. 102.)

Galveston.—The board of commissioners, by a majority vote of all the members, have the power to appoint the officers and the subordinates in all the departments of the city. The mayor has no power of appointment or removal except as one of the five members of the board of commissioners. (Charter, Sec. 8.)

Houston.—The mayor has the power to appoint, subject to confirmation by the city council, all heads of departments in the administrative service of the city whose offices are created by ordinance. He has power to remove all officers or employees in the service of the city for cause, whenever, in his judgment, the public interests demand it. In case of a removal, if the officer or employee removed so requests, the mayor must file in the public archives of the city a written statement of the reason for which the removal was made. (Charter, Art. V, Sec. 2.)

New Orleans.—The commissioner of public works, the commissioner of police and public buildings, the city engineer, city attorney, city notary, board of police commissioners, board of fire commissioners and board of civil service commissioners are appointed by the mayor with the consent of the council, and may be removed by him at pleasure after serving them with notice of the reasons for removal and transmitting a copy thereof to the council. (Charter, Secs. 32-39.)

The mayor has power to fill vacancies in any office which he appoints. (Ib., Sec. 78.)

New York.—In New York the mayor has absolute power of appointment and removal. He appoints the heads of the departments of law, police, water supply, gas and electricity, street cleaning, bridges, parks, public charities, correction, fire, docks and ferries, taxes and assessments, education and health, and all commissioners, unless otherwise provided, and all other offices not elected by the people whose appointment is not excepted or otherwise provided for. (Charter, Sec. 118.)

Whenever in his judgment the public interests require it, the mayor may remove any officer holding office by appointment from any mayor of the city, except members of the board of education, and aqueduct commissioners, trustees of the College of the City of New York, and trustees of Bellevue and allied hospitals, and except also judicial officers for whose removal other provision is made by the constitution. (Charter, Sec. 95.)

Philadelphia.—The mayor nominates and, by and with the advice and consent of the select council, appoints the director of public health and charities and the director of the department of supplies. (P. L., 1885, p. 49; Phil. Digest, Ch. II, Sec. 8.) The directors or chief officers of departments appoint all subordinate officers and clerks. (P. L., 1885, p. 49; Phil. Digest, Ch. III, Sec. 7.) The mayor formerly appointed the directors of the departments of public works and public safety, but he was deprived of this power in 1905 and their appointment vested in the councils. (P. L., 1905, Art. 242.)

The mayor may, by a written order transmitted to the select council, giving his reasons therefor, remove from office any head of department, director or other officer appointed by him. (P. L., 1885, p. 39; Phil. Digest, Ch. II, Sec. 39.) During the recess of the select council he has power to fill all vacancies that may happen in offices to which he may appoint, subject to the approval of the select council at their next session. If such an appointment is not rejected within thirty days after the select council convenes, it is considered confirmed. (P. L., 1885, p. 39; Phil. Digest, Ch. II, Sec. 9.)

St. Louis.—The mayor, with a confirmation of a majority of the members of the upper branch of the assembly, appoints a street commissioner, a sewer commissioner, a water commissioner, and park commissioner, who together constitute the board of public improvements. He also appoints in the same manner a city counselor, district assessors, superintendent of the house of refuge, superintendent of the workhouse, superintendent of fire and police telegraph, the commissioners of supplies, the assessor of water rates,

two police justices, an attorney, a janitor, chief of fire department, and five commissioners on charitable institutions. The appointments are for four years and are made in the middle of the mayor's four-year term. Consequently, during the first two years of his term the officers are those appointed by his predecessor. (Charter, Art. IV, Sec. 2.)

If the council refuses to confirm any appointment of the mayor, he nominates another person to fill the office, and so continues to nominate until a nominee is confirmed. If the mayor fails to make another nomination within ten days from the rejection of one by the council, then the council elects a person to fill the office. (Charter, Art. IV, Sec. 9.)

Any appointed officer may be removed by the mayor for cause, but the mayor must immediately notify the council of such removal and state the causes therefor. In all cases of removal by the mayor the council fills the vacancy. If the council is not in session, the mayor fills the vacancy temporarily, and reports the fact of the removal at the next session of the council. The mayor has the same power of removing an officer so elected as if he had been appointed by the mayor. (Charter, Art. IV, Sec. 7.) If any appointed officer is removed by the council, the mayor fills the vacancy by appointing another person, and no confirmation of the council is required. (Ib., Sec. 8.)

The mayor may suspend any elected officer, but he must immediately notify the council of his action and his reasons therefor. If the council is not in session, he may immediately call a special session. The mayor then presents his charges against the suspended officer to the council and furnishes a copy to the officer, who has the right to appear with counsel for his defense. If a majority of all the members elected to the council sanction the action of the mayor, the suspended officer is removed and a new election is ordered to fill the vacancy; but if a majority disagree with the mayor, the officer is reinstated. (Charter, Art. IV, Sec. 6.)

San Francisco.—In San Francisco the mayor appoints all heads of departments and principal executive officers who are not elected by the people. The approval of the council is not required. The following officers are appointed by the mayor: The board of public works (Charter, Art. VIII, Ch. I, Sec. 1); board of police commissioners (Ib., Art. VIII, Ch. II, Sec. 1); board of fire commissioners (Ib., Art. IX, Ch. I, Sec. 1); board of health (Ib., Art. X, Sec. 1); board of election commissioners (Ib., Art. XI, Ch. I, Sec. 1); civil service commissioners (Ib., Art. XIII, Sec. 1), and the park commissioners (Ib., Art. XIV, Sec. 3).

The auditor, treasurer, tax collector, assessor, coroner, recorder, city attorney, district attorney and sheriff are elected by the people.

When a vacancy occurs in any office, and provision is not otherwise made in the charter or by law for filling it, the mayor appoints a person to fill the vacancy for the remainder of the unexpired term. (Ib., Art. IV, Ch. I, Sec. 4.) Any appointed officer may be removed by the mayor for cause, but when he makes a removal he must immediately notify the board of supervisors and furnish them with a statement of the cause for the removal. He may also suspend, but may not remove, any elected officer, except a supervisor. When the mayor suspends any elected officer he must immediately notify the supervisors. If the board is not in session, he may immediately call a special session. The mayor then presents to the board written charges against the suspended officer and furnishes a copy of the same to the officer accused, who has the right to appear with counsel before the board in his defense. If by an affirmative vote of not less than fourteen members of the board the action of the mayor is approved, then the suspended officer is removed from office; but if the action of the mayor is not approved, the suspended officer is immediately reinstated. (Charter, Art. XVI, Secs. 18, 19, 20.)

(b) *Great Britain and Canada.*

Great Britain.—The mayor of a British city has no power of appointment or removal.

Canada (Toronto).—The mayor has no power of appointment or removal, but as one of the five members of the Board of Control of Toronto he has considerable power. The Board of Control nominates to the council all heads of departments and sub-departments, and, after a favorable report by the head of the department, any other officer of the corporation required to be appointed, by the council, and any other permanent officers, clerks or assistants. No head of department or sub-department or other permanent officer, clerk or assistant can be appointed or selected by the council in the absence of such nomination without an affirmative vote of at least two-thirds of the members present and voting; but the council may, by a majority vote, refer a nomination back to the Board of Control for reconsideration. The Board of Control may dismiss or suspend any head of a department, and such officer may not be re-appointed or reinstated by the council unless upon an affirmative vote of at least two-thirds of the members present and voting. (Consolidated Municipal Act, 1903, Sec. 277 (d), (e).)

(c) *Continental Europe.*

France.—The mayor appoints to all the communal offices for which the laws, orders and ordinances do not fix a special law of appointment. He may suspend and dismiss the incumbents of these offices. (French Municipal Code, Art. 88.)

Prussia.—The burgomaster of Prussian cities has no power of appointment or dismissal.

Austria.—The burgomaster of Vienna has no power of appointment or removal except such as he exercises as a member of the *stadtrath* of twenty-five members, which is really a large standing committee of the council.

(2) Powers of direction and control.

(a) *United States.*

Baltimore.—The mayor has general supervision over all departments, sub-departments, municipal officers not embraced in a department and special commissioners or boards. He must summon all heads of departments to a conference on municipal matters at least once in each fiscal year, and oftener if he thinks necessary, and every head of department must report to him once in every month. He may, as often as he thinks necessary, call upon any officer of the city entrusted with the receipt or expenditure of public money for a statement of his account, and may at any time, by expert accountants and bookkeepers, examine the books and accounts of any department, sub-department, municipal board, officer, assistant, clerk, subordinate or employee. (Charter, Secs. 21, 22, 24.)

Boston.—The executive powers of the city of Boston are vested in the mayor and exercised through the several officers and boards of the city, under his general supervision and control. The officers and boards, in their respective departments, make all necessary contracts for the employment of labor, the supply of materials, and the construction, alteration and repair of all public works and buildings, and have the entire care, custody and management of all public works, buildings and institutions, and the direction and control of all the executive and administrative business of the city. They are at all times accountable for the proper discharge of their duties to the mayor. Every contract in which the amount involved exceeds \$2,000 requires the approval of the mayor before going into effect. Once a month, or oftener, the mayor must call together the heads of departments for consultation and advice upon the affairs of the city. At such meetings, and at any other time, they must furnish such information regarding matters under their control as the mayor may request. The heads of departments, and all other officers and boards having authority to spend money, must annually furnish an estimate to the mayor of the money required for their respective departments and offices during the next financial year. The mayor examines these estimates, and submits them with his recommendations to the city council. (Mass. Acts and Resolves, 1885, Ch. 266, Secs. 6, 7, 8.)

Chicago.—The mayor performs all duties prescribed by law or by the city ordinance, and takes care that the laws and ordinances are faithfully executed. He has power at all times to examine and inspect the books, records and papers of any agent, employee or officer of the city. (Ill. R. S., Ch. 24, Secs. 23, 24.)

Cleveland.—The mayor performs all duties prescribed by the by-laws and ordinances of the city. He supervises the conduct of all officers of the corporation, inquires into and examines the grounds of all reasonable complaints against any of them, and causes any violation or neglect of duty to be promptly punished or reported to the proper authority for correction. (Ohio R. S., 1902, Secs. 1746, 1747.)

Whenever the mayor deems it necessary, the directors of the several departments of the city meet with him for consultation and advice upon the affairs of the city. (Ohio, Law for Municipalities, 1902, Sec. 130.)

Denver.—Heads of departments must from time to time meet with the mayor and confer on matters of general importance to the city and county. The mayor must see that all contracts and agreements with the city and county are faithfully kept and fully performed, and the head of every department and commission must report to the mayor all facts and information coming to their knowledge concerning the violation of any contract or agreement. All bonds, contracts or other instruments of writing must be subscribed by the mayor under the seal of the city and county, and attested by the clerk. (Charter, Secs. 25, 26, 29, 32.)

Detroit.—It is the duty of the mayor to see that all officers of the city faithfully comply with and discharge their official duties; to see that all laws pertaining to the municipal government of the city, and all ordinances and resolutions of the council are faithfully observed and executed, and he has power to report to the council any violations thereof. (Charter, Sec. 118.) He may at any time inspect the books and accounts kept by the board of fire commissioners (Ib., Sec. 426), the commissioner of parks and boulevards (Ib., Sec. 553), and the commissioner of police (Ib., Sec. 681).

Houston.—The mayor has general control over the administration. The head of every department must make a written report to him every year showing the operation of the department for the preceding year. The mayor may at any and all times investigate each and every department of the city government and the official acts and conduct of the city officials. For the purpose of ascertaining facts in connection with such investigation, he has power to compel the attendance and testimony of witnesses, to administer oaths, and to examine all persons that he deems necessary, and to compel the production of books and documents. If any one fails

to appear when served with notice to do so, he is guilty of contempt, and may be punished by fine. Willful false swearing in such investigations is considered perjury and is punishable as such. (Charter, Secs. 9, 10.)

New Orleans.—The mayor is responsible for the proper conduct of the officers of the several departments appointed by him. He must call together the executive officers and heads of departments for consultation and advice upon the affairs of the city at least once a month, and at such meetings he may call upon the officers and heads of departments for such reports relating to matters under their control as he may deem proper. Every month he must lay before the council a full statement of the condition of affairs of the city, and must report all officers and persons employed by the city who fail to perform their duty, or commit any act for which they are liable to impeachment or removal from office. (Charter, Sec. 27.)

New York.—It is the duty of the mayor to cause the ordinances of the city and the laws of the state to be executed and enforced, and for that purpose he may call together for consultation and co-operation any or all of the heads of departments. He appoints two commissioners of accounts to conduct confidential examinations of the different departments. Once in three months these commissioners make an examination of the receipts and disbursements in the offices of the comptroller and the chamberlain, in connection with those of all the departments and officers making returns to the comptroller, and report to the mayor a detailed and classified statement of the financial condition of the city as shown by the examination. They also make special examinations of the accounts and methods of the departments and offices of the city, as the mayor may from time to time direct. For the purpose of ascertaining facts in connection with these examinations, they have full power to compel the attendance of witnesses, to administer oaths and to examine such persons as they deem necessary. (Charter, Secs. 115, 119.)

Philadelphia.—It is the duty of the mayor to see that the ordinances of the city and the laws of the state are executed. He exercises supervision and control over the conduct of all subordinate officers and receives and examines all complaints preferred against them. He is ex officio member of all boards, except the board of building inspectors, and has a right to participate in their deliberations and proceedings, and may vote at their meetings whenever he chooses. The several heads of departments must present to him annually a report of their proceedings during the preceding year. As often as he thinks proper, the mayor may appoint three competent persons to examine, without notice, the accounts of any city de-

partment, trust officer, or employee, and the money, securities and property belonging to the city in their possession. He must call together the heads of departments for consultation and advice upon the affairs of the city at least once a month. At such meetings he may call on the heads of all departments for any reports on matters under their control which he wishes, and it is the duty of the heads of departments to prepare the reports and submit them at once. At these meetings of the mayor with the heads of the departments, rules and regulations are adopted for the administration of the affairs of the city departments with the object of prescribing a common and systematic method of ascertaining the comparative fitness of applicants for office, and of appointing, without regard to their political opinions and services, those found best qualified. (P. L., 1885, p. 38; Phil. Digest, Ch. II, Secs. 11, 12, 13.)

St. Louis.—The mayor has general supervision over all the departments of the city and may appoint a competent person or persons to examine the affairs of any department or departments whenever he considers it necessary. All questions of difference between officers of the city as to their relative powers and duties may be referred by either of them to the mayor, and his decision in such cases is final. The heads of departments must furnish annually to the mayor, and as often as may be required by him, a full itemized account of all the money received and paid out by the departments. Their, books, papers and everything connected with their offices are at all times open for examination and inspection by the mayor. (Charter, Art. IV, Secs. 15, 16, 44, 47.)

San Francisco.—The mayor must observe the official conduct of all public officers and the manner in which they execute their duties and fulfill their obligations. The books, records, and official papers of all departments are at all times open to his inspection and examination. He must take special care that the books and records of all departments, boards and officers are kept in legal and proper form. When an official defalcation or a wilful neglect of duty or official misconduct comes to his knowledge, he must suspend the delinquent officer pending an official investigation.

The mayor from time to time recommends to the proper officers of the different departments any measures which he considers beneficial to public interest. He has general supervision over all the departments and public institutions of the city and county and sees that they are honestly, economically and lawfully conducted; he has the right to attend the meetings of any of the boards of the city and may offer suggestions at such meetings.

It is the mayor's duty to see that all contracts and agreements with the city are faithfully kept and fully performed. (Charter, Art. IV, Ch. I, Sec. 23.)

(b) *Great Britain and Canada.*

Great Britain.—In Great Britain the mayor has no power of direction or control whatever over the administrative services.

Canada.—Any power of direction possessed by the mayor is exercised by virtue of his membership of the Board of Control of which he is one of five members. (See Pt. Three, I., 1, (2), c.) The board has general control over all departments; it inspects and reports to the council monthly or oftener upon all municipal works being carried on or in progress within the city. It has the power to amalgamate departments or sub-departments. By its power to appoint and dismiss any head of a department, it practically directs both the general policy and the detailed action of the various departments. (Consolidated Municipal Act, 1903. Sec. 277, (c), (d), (e), (f)).

(c) *Continental Europe.*

France.—In France the mayor has full charge of the administration. He does not select the adjuncts or assistants but he assigns them to particular departments and has large powers of control over them. He has the care and management of the property of the commune; he manages the revenues, and supervises the expenditures; directs all public works; makes provision for measures relating to highways; has control over the making of contracts, leases, sales, acquisitions and all business transactions of the city; he represents the commune in matters of litigation, whether as plaintiff or defendant, and in general carries out the decisions of the municipal council. The exercise of these powers together with the power of appointment, and removal of municipal employees make the mayor the responsible head of the administration. (French Municipal Code, Arts. 82, 90.)

Austria and Prussia.—In Germany the burgomaster does not have the exclusive power over the whole administration possessed by the French mayor, but he is the head of the board of magistrates which jointly directs and controls the whole administration.

(4) *Miscellaneous powers.*

Baltimore.—The mayor is a conservator of the peace and has all the jurisdiction and power of the Justice of the Peace. Other administrative duties are imposed on him as a member *ex officio* of the department of review and assessment. (Charter, Secs. 21, 145.)

Boston.—In Boston the mayor issues all licenses for theaters and public halls. The terms, conditions, and form of each license is prescribed by the licensing officer and, providing that the applicant has complied with all provisions of law, the license must be issued on application. (Mass. Acts and Resolves, 1904, Ch. 450.)

Chicago.—The mayor may exercise within the city limits, the powers conferred upon sheriffs, to suppress disorders and to keep the peace. It is his duty to suppress riots, routs, affrays, fighting, breaches of the peace, and to prevent crime. He may arrest offenders on view, and have them brought before the proper magistrates for trial on examination. He may release any prisoner imprisoned for violation of any city ordinance, but must report such release, with the cause thereof, to the council at the first session thereafter. He has power when necessary, to call on every male inhabitant of the city over the age of eighteen years of age, to aid in enforcing the laws and ordinances. He may call out the militia to aid in suppressing riots and other disorderly conduct, or for carrying into effect any law or ordinance, subject to the authority of the governor as commander-in-chief of the militia. (Ill. R. S., 1905, Ch. 24, Secs. 21, 22, 26.)

Denver.—The mayor may remit fines and penalties imposed for the violation of any ordinance but must report such remissions to the council at the next meeting, with his reasons. He may call upon every male inhabitant over the age of eighteen years to aid in enforcing the laws and ordinances, in preventing and extinguishing fires and in preserving the public peace and safety. (Charter, Secs. 25, 27.)

Detroit.—The council may authorize the mayor to grant, issue and revoke licenses; to direct the manner of issuing and registering them and to prescribe the sum of money to be paid therefor into the treasury. (Charter, Sec. 191.) He may issue process and hear, in a summary way, any complaint against any person to whom a license of any description has been granted, for any violation of the laws of the state or the ordinances of the city, and may issue subpoenas, in the same manner as justices of the peace in the trial of civil cases. On such hearing he may annul the license or suspend it for any certain time. (Ib., Sec. 132.) The mayor is authorized to administer oaths and to take affidavits but may not receive any fees. (Ib., Sec. 131.) As a member of the sinking fund commission and the committee to negotiate loans and as *ex officio* member of the board of education the mayor has other administrative duties. (Ib., Secs. 256, 260, 596.)

Galveston.—Whenever the mayor deems it necessary, in order to enforce the laws of the city, avert danger, or protect life or property, he may summon into service, as a special police force, all, or as many, of the citizens as he considers necessary. Such summons may be by proclamation or order, addressed to the citizens generally, or those of any ward of the city, or it may be by personal notification. Such special police, while in service, are subject to the orders of the mayor, must perform such duties as he may require, and have the same power while on duty as the regular police force of the city. (Charter, Sec. 14.)

Houston.—The mayor has the power to administer oaths; he signs all contracts and in case of the disability or absence of the Judge of the Corporation Court, acts as Judge of that Court. (Charter, Art. VI, Sec. 7.)

New Orleans.—The mayor is *ex officio* justice and conservator of the peace.

New York.—The mayor is a magistrate. (Charter, Sec. 116.) He is a member of the board of estimate and apportionment (Ib., Sec. 226), of the sinking fund commission and of the art commission (Ib., Sec. 633), and as such has important duties to perform. He possesses the same powers as the chief and captains of police to examine the books of pawnbrokers. (Ib., Sec. 121.)

If, in his opinion, war, pestilence, or other public calamity, or the danger thereof, or the destruction or injury of the building, or the want of suitable accommodation, renders it necessary that some other place be selected, the mayor may direct that the next ensuing term of any court, other than the court of appeals, appointed to be held in the city shall be held in any building which he may name. (Ib., Sec. 120.)

Philadelphia.—The mayor of Philadelphia has all the jurisdiction and power of a committing magistrate throughout the city. (P. L., 1860, p. 318; Phil. Digest, Ch. II, Sec. 27.) He has the power and authority to take the proof of all deeds, conveyances, mortgages, or other instruments of writing, concerning any lands or property in any part of the city. All fees collected by him are paid into the treasury. (P. L., 1817, p. 395; Phil. Digest, Ch. II, Sec. 28.)

The mayor has the power to close to public travel any highway which is in such a condition as to be dangerous to life or limb. (Phil. Digest, Ch. II, Sec. 26.)

The mayor has considerable police power. If any persons, unlawfully, riotously, and tumultuously assemble to the number of twelve or more, so as to endanger the public peace, it is the duty of the mayor to go among the rioters and command all police officers and all citizens of age to assist him. If the force of police and citizens is not, in his opinion, competent to suppress the riot, he may call upon the commanding officer of the military division in which the city is to assist him with the military force at his command. The military force may proceed in suppression of such unlawful assemblage as in case of war or public insurrection and remain in service and upon duty until the mayor certifies in writing that the riot is entirely suppressed. (P. L., 1850, p. 172; Phil. Digest, Ch. II, Secs. 14-17.) Upon any emergency or apprehension of riot or mob, the mayor may take command of the police force and appoint as many special patrolmen as he deems necessary. During their

services the special appointees possess the powers and perform the duties of regular employes of the department, and receive such compensation as may be authorized by the mayor, not exceeding that of the regular officers of the force. (P. L., 1885, p. 41; Phil. Digest, Ch. II, Sec. 23.)

St. Louis.—The mayor may remit fines, costs, forfeitures and penalties duly imposed for violation of any ordinance but must make a report of such remission to the Assembly. (Charter, Art. IV, Sec. 16.)

Whenever in his opinion a nuisance exists, on public or private property, or whenever a nuisance has been declared by ordinance or resolutions of the board of health, the mayor may abate and remove such nuisance and the cause thereof in a summary manner, at the cost of the owner or occupant of the premises where the nuisance is. (Ib., Art. III, Sec. 26, Sixth.) As president of the board of health, the mayor has important duties to perform. Whenever it comes to his knowledge that any malignant, infectious or contagious disease or epidemic is prevalent in the city, or will probably become so, he may make proclamation to the inhabitants. (Ib., Art. XII, Sec. 8.)

San Francisco.—The mayor is responsible for the preservation of public order. He must take all proper measures for the suppression of riots and tumults and for that purpose he may use and command the police force. If the police force is found insufficient he may call upon the governor for military aid, so that such riots or tumults may be promptly and effectually suppressed. (Charter, Art. IV, Ch. I, Sec. 2.)

The mayor must institute such actions or proceedings as may be necessary to revoke, cancel or annul all franchises which have been forfeited in whole or in part or which for any reason are illegal and void and not binding upon the city. The city attorney, on demand of the mayor, must institute and prosecute the necessary actions to enforce such proceedings. (Ib., Sec. 3.)

(b) *Great Britain and Canada.*

England.—The mayor, by virtue of his office, is a justice of the peace, and, unless disqualified to be mayor, continues to be a justice during the year next after he ceases to be mayor. He has precedence over all other justices acting in and for the borough, and is entitled, by virtue of his office, to take the chair at all meetings of the justices at which he is present. (45 and 46 Vict., C. 50, Sec. 155.)

The mayor has various duties in connection with the holding of elections. He is the returning officer and performs other formal duties. (45 and 46 Vict., C. 50, Sec. 53.)

Scotland.—As in England, the mayor is a magistrate, and has his share of judicial work to do, mostly in the exercise of ordinary

police jurisdiction. He is also the returning officer for municipal elections. (63 and 64 Vict., C. 49, Sec. 50.)

Canada.—The mayor may call out the posse comitatus to enforce the law within his municipality, if exigencies require it, under the same circumstances in which the sheriff of a county may do so (Consolidated Municipal Act, 1903, Sec. 281.) The mayor is, ex officio, a justice of the peace. (Ib., Sec. 473.) As a member of the Board of Commissioners of Police, he has important police duties. (Ib., Sec. 481.)

(c) *Continental Europe.*

France.—Every French mayor is regarded as at once an agent of the state and the chief executive officer of his city. As an agent of the central government, he is charged, under the supervision of the superior administration, with municipal and rural police authority, and the execution of orders of the superior authority relative thereto. The administrative authority of the mayor, under his general title to exercise police power, extends to various measures for the protection of the public health such as the mode of conveyance of dead persons, burials and exhumations. He also has authority over the inspection as to honesty in the sale of goods sold by weight or measure, and as to the wholesomeness of eatables exposed for sale; the maintenance of order in places where there are great assemblages of people, such as fairs, markets, public rejoicings and ceremonies, spectacles, plays, cafes, churches and other public places; the granting of building permits; the cleaning, clearing and care of streets, wharves, places and ways, together with the regulation of numerous matters which relate to the good order and convenience of the community. (French Municipal Code, Arts. 97, 98.)

In France the entire control over the police administration is vested in the prefect of police appointed by the central government.

II. ADMINISTRATIVE OFFICERS AND DEPARTMENTS.

1. GENERAL ADMINISTRATION.

(1) City Clerk.

(a) *The United States.*

Baltimore.—The Charter of Baltimore does not establish the office of city clerk. The council may provide its own clerks. (Charter, Sec. 217.)

The custodian of city records and archives is the city librarian, who is appointed by the mayor for a term of four years. (Ib., Secs. 25, 196.) The librarian also supervises the purchase and distribution

of stationery for city departments. (Ib., Secs. 197, 198.) The city register is the custodian of the city seal. (Ib., Sec. 35.)

Boston.—The city clerk is chosen for a three years' term. (Mass. R. L., Ch. 26, Secs. 15, 16), by the concurrent vote of the city council. (Mass. Acts and Resolves, 1885, Ch. 266, Sec. 2.) His duties are the usual ones: custody of documents, and the keeping of records of the board of aldermen. (Ib., 1854, Ch. 448, Sec. 30.)

Chicago.—A city clerk is elected by the people for a term of two years. (Ill. R. S., Ch. 24, Sec. 72.) He keeps city records and is clerk of the council. (Ib., Secs. 81, 82.) The clerk countersigns warrants (Ib., Sec. 92), and has power to administer oaths (Ib., Sec. 87).

Cleveland.—The city clerk is elected by the council for a term of two years. His duties and compensation are fixed by the council, and he may be removed by a two-thirds vote. (Ohio Law for Municipalities, 1902, Sec. 118.)

Denver.—The city clerk is elected by the people for a term of 4 years, at a salary of \$3,000. (Charter, Secs. 153, 167, 168.) He is clerk of the council, and keeps a record of city contracts, official bonds, etc. He is keeper of the city seal. (Ib., Sec. 37.) He receives fees for attesting copies of official records. (Ib.)

Detroit.—The city clerk is elected for a 2-year term. (Charter, Sec. 84.) His salary and bond are fixed by the council. (Ib., Sec. 109.) He is keeper of the corporate seal, and clerk of the council. (Ib., Sec. 123.) He may administer oaths. (Ib., Sec. 131.) He presides over a newly elected council until the president is elected. (Ib., Sec. 146.) He notifies officers of their appointment or election, and may declare an office vacant if the person appointed or elected fails to qualify properly. (Ib., Sec. 113.) The clerk gives notice of registration and distributes the necessary books, blanks, etc., for registration. (Ib., Secs. 9, 19, 20.) He gives notice of elections to be held, and makes transcripts of election registers and distributes copies of election laws. (Ib., Secs. 30, 21, 57.) He is a member of the board of election commissioners (Ib., Sec. 31); of the board of city canvassers (Ib., Sec. 54) and secretary of the board of estimates. (Ib., Sec. 207.)

New Orleans.—The council elects a clerk at a salary not exceeding \$1,800. The city notary has some duties of authentication often performed by the clerk. (Charter, Sec. 37.)

New York.—The city clerk is appointed by the board of aldermen for a term of 6 years, at a salary of \$7,000, and is removable by a two-thirds vote. (Charter, Secs. 28, 33.) He keeps authentic record of the proceedings of the council and of ordinances. He also

keeps a separate record known as the "street franchise book," in which every franchise is officially recorded in full. (Laws of N. Y., 1905, p. 1534.) He is keeper of the city seal. (Ib., Sec. 31.) The city clerk appoints the clerk of each borough, who is accountable to him. (Charter, Sec. 32.) He appoints a commissioner of deeds clerk, and authenticates the acts of commissioners of deeds. (Ib., Sec. 37.) Like other officers who receive fees, the clerk can receive no salary until all fees have been accounted for into the city treasury. (Ib., Sec. 1550.) The city clerk may grant auctioneers' licenses. (Ib., Sec. 34.)

Philadelphia.—No provision is made by statute for a city clerk. The city council of Philadelphia is bicameral, and each chamber is authorized to choose its own officers. (P. L., 1854, p. 25.) Under this provision a chief clerk and assistant clerks are elected by each board of the council and these officials perform the duties usually devolving upon the city clerk. (See Rules of the Councils. Phil. Digest, Ch. 44, Columns 828-837.)

St. Louis.—In St. Louis the officer who performs the duties of city clerk is called the register. He is elected by the people for a term of 4 years. His salary is fixed by the Municipal Assembly, but may not exceed \$5,000, and he may be required to give bonds. (Charter, Art. IV, Secs. 1, 4, 43; Art. XVI, Secs. 17, 18.) Subject to the approval of the mayor he appoints such clerks as may be required for the performance of his duties. (Ib., Art. IV, Sec. 23.)

The register is keeper of the city seal and of all public documents, including original contracts, deeds and certificates, not required to be deposited with some other office. In addition to the duties usually performed by the city clerk, the register is clerk of the county court. He has general supervision of the public printing of the city, and advertises for the bids therefor. Within 5 days after approval he is required to have all ordinances passed by the assembly published in the papers which do the city printing. (Charter, Art. IV, Sec. 23; Art. XV, Secs. 1, 2.)

San Francisco.—The clerk of the Board of Supervisors (council) performs the duties usually devolving upon a city clerk. He is appointed by the board, which also has power to fix his salary and prescribe his duties. When authorized to do so by ordinance, the board may appoint additional clerks. (Charter, Art II, Ch. 1, Sec. 4.)

The clerk of the board of supervisors performs the usual duties of city clerk. He is keeper of the city seal and has custody of all leases, grants and other documents of the city and county. He is also clerk of the board of supervisors when it acts as the board of equalization. The bids for city supplies are under his supervision, and he is custodian of the supplies in the nature of stationery for

all the departments and issues the same upon requisition. (Ib., Art. II, Ch. 1, Secs. 7, 17; Art. III, Ch. 3, Secs. 2, 3, 5.)

(b) *Great Britain and Canada.*

England.—The council appoints a person, not a member of the council, to be the clerk of the borough. He holds his office during the pleasure of the council, and a vacancy in the office must be filled within twenty-one days. In case of the illness or absence of the town clerk, the council appoints a deputy to hold office during their pleasure. The council may require the clerk to give such security as they think proper, and may allow him such remuneration as they think reasonable.

The clerk has charge of, and is responsible for, the charters, deeds, records, and documents of the borough, and must keep them as the council directs. (45 and 46 Vict. C. 50, Sec. 17.) He makes a return to the local government board of the receipts and expenditures of the municipal corporation for each financial year. If the clerk fails to make any return required of him, he is liable for each offense to a fine not exceeding £20. (45 and 46 Vict., C. 50, Sec. 28.) He also has important duties to perform in connection with elections. All burgess lists of people entitled to be enrolled in the burgess roll for the year are delivered to him. He causes a printed copy of all the parish burgess lists to be fixed on the town hall and receives the complaints of those claiming a place on the list and of those objecting to certain names. He makes two separate lists of the claimants and the persons objected to and presents them to the electoral court. He also provides and receives nomination papers, notifies candidates of their nomination, and publishes the list of candidates. (Ib., Third Schedule, Pt. I, Secs. 1, 12; Pt. II, Secs. 6, 8, 15.)

"The most important man in an English municipal corporation is the town clerk. He has a large salary and is expected to hold his office for life. He is the council's recording officer, the custodian of records, deeds, and charters, the council's legal adviser, the medium through which communication is had with the Local Government Board, the publisher of registration lists and election announcements, the draftsman of bills which the council desires Parliament to pass, the general secretary of the borough, and a high authority on points of municipal law, precedent, and history." (Shaw, *Mun. Govt. in Great Britain*, p. 64.)

Canada, (Ontario).—The clerk is chosen by the council and holds office until removed by the same authority. In case the clerk is absent or incapable through illness of performing his duties, some other person named by the council or appointed by the clerk, acts in his stead. The council fixes the salary of the clerk and provides for its payment.

The clerk keeps the books, records, and accounts of the council, preserves and files all accounts acted upon by the council, and also the originals or certified copies of all by-laws, and of all minutes of council proceedings. (Consolidated Municipal Act, 1903, Secs. 282, 320.)

In elections, the clerk is the returning officer for the whole municipality. The deputy returning officers make the returns for their respective wards to him. (Ib., Sec. 106.) He furnishes the deputy returning officers with ballot papers and the materials necessary for voters to mark their ballots (Ib., Sec. 146) ; he delivers copies of the voters' list poll book and defaulters' list to the deputy returning officers (Ib., Sec. 152) ; he settles disputes as to the election returns from different wards, casts up from the returns the number of votes for each candidate and declares the results of elections. (Ib., Sec. 177 (6), 178.)

The clerk must, within one week after the final revision of the assessment roll, make return to the Secretary of the Bureau of Industries of such statistics or information as the assessment roll or other records of his office afford. Within one month after the final passing of every by-law for creating a debt, he must send to the Secretary of the Bureau of Industries a copy of the newspaper advertisement required in such cases. On the first day of June, in each year, he must report to the Minister of Agriculture the number of steam boilers in the municipality used for driving machinery or for any manufacturing purpose. (Ib., Secs. 285, 287.)

(2) **Departments of finance.**

(a) *United States.*

Baltimore.

The finance department consists of the comptroller, the register, the board of estimates, the commissioners of finance, the city collector, and the collector of water rents and licenses. There is a finance board, with advisory power only, consisting of the single officers named and the presidents of the two commissions, under the presidency of the comptroller. (Charter, Sec. 2.)

The comptroller is the chief financial officer. He is elected for a term of 4 years at a salary of \$3,500. (Ib., Sec. 33.) He is required to be a property owner. (Ib., Secs. 16, 33.) He appoints a deputy and assistants, including an audit clerk, a harbor master (who collects harbor and wharf dues), an inspector of weights and measures, and a market master. The comptroller audits all claims against the city. He receives collections from collecting officers and turns them over to the register. Other duties may be prescribed by ordinance. He may be removed by a majority vote of the second branch of the council, after written charges and a proper hearing. (Ib., Sec. 34.)

The register is appointed by the city council in joint session for a term of 4 years, at a salary of \$3,300, in addition to \$300, which he receives for services to the state. (Charter, Sec. 35; Gen. Laws of Md., Art. 81, Sec. 93.) He is custodian of city moneys, and keeper of the seal. He appoints deputies. (Ib., Sec. 35.)

The board of estimates consists of the mayor, city solicitor, comptroller, president of the second branch of the city council and president of the board of public improvements. The principal duty of the board is to draw up the annual estimates and budget, the items of which may be decreased, but not increased by the council. It estimates the rate of taxation necessary for the ensuing year. (Ib., Sec. 36.) Franchise ordinances are submitted to the board, which has power to investigate and fix the compensation to be required for the grants; and no franchise may be granted by the council except for the consideration and on the terms fixed by the board of estimates. Permits for street encroachments, bay windows, etc., must be approved by the board. (Ib., Sec. 37.) No claim against the city may be ordered paid until it has been approved by the board. (Ib., Sec. 36.)

The commissioners of finance are the mayor, comptroller, register, and two other persons, appointed by the mayor to serve for 4 years, without salary. The board selects depositories for city funds and manages the sinking funds. (Ib., Sec. 41.)

The work of assessment is in charge of the appeal tax court, which, with the commissioners for opening streets, constitutes the department of review and assessment. The appeal tax court consists of three members, appointed by the mayor for a term of 3 years, one retiring each year. The salary is \$2,000. (Ib., Sec. 146.)

This court with the assessors appointed by it makes an original assessment of real estate every 5 years, and makes annual additions and corrections. Personal property is assessed annually. (Ib., Sec. 148.) The court is also a court of review. (Ib., Sec. 170.) It submits to the board of estimates and the city collector annually on the first of October a statement of the assessed valuation of taxable property. (It is to be noted that this statement is transmitted before the board of estimates makes up its estimates for the ensuing year.) (Ib., Sec. 171.)

The city collector is appointed by the mayor, with the consent of the second branch of the council, for a term of 4 years, at a salary of \$2,000. (Ib., Secs. 25, 42.) He collects taxes and special assessments. He is required to have tax bills ready for collection by the first of January. (Ib., Sec. 42.) There is also provided a collector of water rents and licenses, appointed in the same manner and for the same term as the city collector. The council may transfer the duties of this officer, however, and dispense with the office. (Ib., Sec. 59.) There may be provided a separate collector for state taxes, if the council so determines; in that case, he is appointed in

the same manner and for the same term as the city collector. (Ib., Sec. 58.)

Boston.

The financial machinery of Boston consists of the treasury department, the audit department, the collector, the assessor and a board of sinking fund commissioners, all of whom are appointed by the mayor.

The treasurer, who is in charge of the treasury department, has custody of the funds of the city, and performs such duties as ordinarily devolve upon the chief financial officer of a city. (Boston Munic. Register, p. 87.) He is also county treasurer and treasurer of the sinking fund commission. He is appointed **annually**.

The auditing department is in charge of the auditor, who is appointed **annually**. (Ib., p. 43.)

The collecting department, in charge of the collector, receives all assessments, betterments, rates, dues and money, payable on any account to the city of Boston or the county. (Ib., p. 49.)

The assessing department consists of the Board of Assessors, composed of nine assessors, appointed by the mayor for 3 years. (Ib., p. 38.) As Boston has a system of city assessment, the work of valuing Boston property devolves upon this board.

The sinking funds department consists of three commissioners, who constitute the board of commissioners of sinking funds. They are vested with control over the city fund for the redemption of the city debt. (Ib., p. 79.)

Special assessments are ordered by the council or petitioned for by a majority of the owners in interest. The administration of the work is in charge of the board of street commissioners, (see Public Works) and the street department.

Chicago.

The finance department of Chicago is made up of the city comptroller, city treasurer, city collector, and of such clerks and assistants as the council provides by ordinance. (Chicago Rev. Code, 1905, Sec. II.)

The head of the department and the most important financial officer of the city is the comptroller. He is appointed by the mayor, with the consent of the council. (Ib., Sec. 14.) While this office is created by ordinance there are certain statutory duties in addition to those prescribed by the council. He has charge of all deeds, vouchers, books and papers not given to some other office. Before May 15th of each year he submits to the council an estimate of the amount needed to defray the expenses of the city for the current year. This report must show the amount of all unexpended appropriations; the aggregate income for the preceding year and all liabilities, bonds and debts payable during the year, etc. (Ill. Rev. Stat.,

Ch. 24, Sec. 104.) The comptroller also keeps an account of all bonds out-standing, purchased or cancelled. He advertises for bids for interest on the public funds and reports bids to the council. (Ib., Secs. 106, 193 (a) (j).)

By ordinance the comptroller is given power to appoint such subordinates and clerks as may be authorized by the council. (Chicago Rev. Code, Sec. 18.) He has general supervision over all the officers of the city charged with the receipt, collection or disbursement of city revenues. He has supervision over all contracts, bonds and claims of the city. In subordination to the mayor and council he has supervision of all financial interests of the city. (Ib., Sec. 21.) He audits and adjusts all accounts in which the city is concerned. All officers charged with the receipt, collection or disbursement of the city revenues must make monthly sworn statements to him in writing (Ib., Sec. 28); and in keeping their accounts they must use the books and forms which he may prescribe. (Ib., Sec. 50.)

The treasurer in Chicago is elected by the people and his term is 2 years. (Ill. R. S., Ch. 24, Sec. 72.) No person can be elected to the office for two successive terms. (Ib., Sec. 49.) He appoints all his assistants and subordinates. The salary and bond of the treasurer are fixed by ordinance but the bond cannot be fixed at less than the estimated amount of taxes and special assessments for the current year. (Ib., Sec. 75.)

The treasurer receives all moneys belonging to the city. He keeps his books and accounts in such manner as may be prescribed by ordinance, and they are always subject to inspection by any member of the city council. (Ib., Sec. 92.) At the end of each month, and oftener if required, the treasurer renders an account of the state of the treasury to the council or to some officer designated by ordinance. (Ib., Sec. 95.)

The treasurer is prohibited from using the corporation money or warrants for his own use or benefit either directly or indirectly, nor may he so employ them for any other person. Violation of this provision renders him liable to removal from office by the city council. In case of his removal under such circumstances the council may appoint a successor for the remainder of the unexpired term. (Ib., Sec. 96.) As often as required he reports to the council an account of the receipts and expenditures of the corporation as shown by his books. In addition he must file with the clerk in April annually a detailed report of all his transactions during the preceding year. (Ib., Sec. 97.)

The office of city collector is established by ordinance. The collector is appointed by the mayor with the consent of the council. (Rev. Code, Sec. 61.) He must give bond for \$250,000. (Ib., Sec. 62.) Subject to the law he appoints his own subordinates and clerks. (Ib., Sec. 63.)

The collector preserves all warrants turned into his hands. He pays over to the treasurer weekly, or oftener if required, all money collected by him. (Ill. Rev. Stat., Ch. 24, Sec. 100). and makes a monthly statement to the comptroller of all money which he has received. (Ib., Sec. 101; Rev. Code, Sec. 64.) All license fees, fees for inspection or permits, compensation for franchises and all other payments of money not specifically provided for are paid to the collector and he must transmit them to the treasurer daily. (Rev. Code, Sec. 65.)

Chicago has no separate assessors. All taxes are assessed by the county authorities.

Cleveland.

The principal financial officers are the auditor, the treasurer, and the board of tax commissioners, who are also sinking fund commissioners. The auditor is elected for a term of two years (Laws of Ohio 1906, p. 196); his salary is fixed by the council. (Ohio Law for Municipalities 1902, Sec. 126.) He is chief accounting officer of the city, and audits the accounts of all officers and departments each month. He has power to prevent expenditures in excess of amounts appropriated, or in excess of amounts in the treasury credited to the fund to which the expenditure is chargeable. (Laws of 1906, p. 196.) He is also auditor of the board of education. (R. S. Ohio 1902, Sec. 3899.) He is required to report to the bureau of inspection and supervision of public offices, under the auditor of state. (See Part One, VI, 2, (4) State administrative control over municipal finance.)

The treasurer is elected for a term of 2 years. (Law for municipalities 1902, Sec. 135.) He receives a salary fixed by the council. (Ib., Sec. 126.) He has the usual duties of a city treasurer. He is authorized to deposit public moneys in banks of his own selection, upon his own responsibility; but the council may provide for the selection of depositories by competitive bidding, in which case the treasurer, if he exercise due care, is no longer liable for loss. (Ib., Sec. 135, as amended by Laws of 1904, p. 270.)

Property is assessed and taxes collected by county officers, under general state law. (Ohio R. S. 1902, Sec. 2786.) The county treasurer collects also special assessments. (Law for Municipalities 1902, Secs. 41, 94.)

The board of tax commissioners consists of 4 men (well known for their intelligence and integrity), appointed by the mayor for a term of 4 years, one retiring each year. Not more than 2 may belong to one political party. They receive no compensation. (Ib., Sec. 46, 47.) The board revises the annual tax levy after it is adopted by the council. The changes made in the levy by the board are final unless overruled by a three-fourths vote of the council. The board must not increase the levy. (Ib., Sec. 49.)

The same commission acts as trustees of the sinking fund, with the usual powers. The rate of taxation certified by the commission as necessary for interest and debt must be levied by the council without change, and in preference to all other items. (Ib., Sec. 101-108.) They also collect all rents due the city. (Ib., Sec. 112.)

Denver.

The chief accounting officer is the auditor, who is elected for a term of 4 years at a salary of \$4,600. (Charter Secs. 167, 168, 153.) He prescribes the accounting system for all officers; keeps the general accounts, and furnishes each department a weekly statement of unexpended appropriations. (Ib., Sec. 47.) The auditor audits all demands upon the treasury. He reports twice each year to the council: on June 30th he reports the condition of each of the city funds; and on Jan. 15th the annual statement of the city finances. (Ib., Sec. 50.)

The treasurer is elected for the same term and receives the same salary as the auditor. (Ib., Secs. 167, 168, 153.) He has the usual duties of a treasurer, and reports monthly to the auditor, quarterly and yearly to the council. (Ib., Secs. 54, 55, 56.) With the approval of the mayor and auditor, he selects as depositories those banks which will pay the highest rate of interest on average current deposits. Such banks must make quarterly statements, showing the amount of interest paid. (Ib., Sec. 58.) He is also collector of taxes. (Ib., Sec. 214.)

The mayor also employs an expert accountant at least once each year to examine the accounts of the auditor and treasurer and such other officers as the mayor directs. (Ib., Sec. 243.)

The assessor is elected for the same term and receives the same salary as the auditor and treasurer. He assesses property in the city and county under the general assessment laws of the state. (Ib., Sec. 46.)

The collection of taxes is performed by the city treasurer. He accounts to the auditor monthly for all tax collections. (Ib., Sec. 214.)

Special assessments are levied and administered by the board of public works. Costs of street improvements are assessed on abutting property, according to frontage. It is provided that no improvement, unless it is petitioned for by the owners of property to be charged, may be ordered, if the amount assessed on any piece of property will exceed one-half of its assessed value. The city is authorized to pay in whole or in part out of the general revenue for the improvement of any street suitable for a general thoroughfare. (Ib., Secs. 270-277.)

Detroit.

The chief financial officers are the controller, treasurer, board of assessors, receiver of taxes, board of estimates and commissioner of the sinking fund.

The controller is nominated by the mayor and appointed by the common council for a term of 3 years. (Charter Sec. 85.) His salary is fixed by the council, and he may be removed by a two-thirds vote. (Ib., Secs. 166, 102.) He has general supervision of city finances; is chief accounting officer; and audits all demands and issues warrants on the treasury. (Ib., Secs. 124, 203, 248, 225.) He may inspect the books of the various departments. (Ib., Secs. 426, 681, 553.) He is a member of the sinking fund commission (Ib., Sec. 260) and of the board of education, but without vote. (Ib., Sec. 596.)

The treasurer is elected by the people for a term of 2 years. (Ib. Sec. 84.) His salary is fixed by the council. (Ib. Secs. 109, 166.) His duties are the usual ones of a treasurer: the custody of moneys and the drawing of statements of receipts and disbursements, and of the condition of the treasury. (Ib., Sec. 126.) He is a member of the board of election commissioners, and of the board of canvassers. (Ib., Secs. 31, 54.) He is also a member of the sinking fund commission. (Ib., Sec. 260.) He is treasurer of the board of education, and a member of the board, though without a vote. (Ib., Secs. 596, 605.)

The board of estimates consists of 2 members elected from each ward for a term of 2 years, one retiring each year, and 5 elected at large for the same term. They receive \$5 for each session of the board. The annual budget is submitted to the board after having been adopted by the council, and the board may reduce any item of appropriation or taxation. The board considers propositions for bond issues submitted to them by the council, and may approve or disapprove them. (Ib., Secs. 208, 209.)

The board of assessors consists of 3 members nominated by the mayor and appointed by the council for a term of 3 years, one retiring each year. (Ib., Sec. 212). Assessments are made by wards, after which the board of assessors sits as a board of review to hear complaints. Appeals may be made from the board of assessors to the council, which has power to make corrections in the lists. The board of assessors then makes up the tax rolls and delivers them to the receiver of taxes. (Ib., Secs. 213, 218-220.)

The receiver of taxes is nominated by the mayor and appointed by the council for a term of 3 years. (Ib., Sec. 85.) He collects all taxes and special assessments. Taxes become delinquent Aug. 1st, and 1 per cent is added every 30th day thereafter. Property may be sold for taxes after the 15th of January following. (Ib., Secs. 220-231, 276.)

The board of sinking fund commissioners is composed of the mayor, controller, treasurer and the committee on ways and means of the council. They have the management of the sinking funds, and no payments or transfers may be made from the sinking funds except on their order. (Ib., Secs. 260-262.)

New Orleans.

The chief financial officer of New Orleans is the comptroller, an elective officer, chosen for a term of 4 years. (Charter Sec. 22.) He has general supervision over the finances of the city (Ib., Sec. 30); prescribes the form of accounts; issues warrants on the treasurer; audits all claims against or in favor of the corporation; makes a semi-annual report to the council and mayor of receipts and expenditures, with estimates for the next semi-annual period.

The treasurer, elected for 4 years, is the custodian of the city funds, the receiving and disbursing officer. (Ib., Sec. 31.) He also acts as collector of taxes, licenses and other moneys. He is required to report his collections of taxes and licenses daily to the comptroller, and other receipts and expenditures weekly.

For purposes of assessment and collection of taxes there are seven state collectors, and seven assessors, appointed by the governor for a term of 4 years. (Constitution of Louisiana, Arts 309, 310.) The work of these collectors is supplemented by that of the city treasurer.

Local improvements may be made by the council, on petition of one-fourth of the property owners interested, provided that objection is not offered by a majority upon notification (Charter Sec. 97); or without such consent by a two-thirds vote of the council. (Ib., Sec. 102.)

New York.

The central financial authority of New York City is the board estimate and apportionment. This is a quasi-administrative, quasi-legislative body, composed of the mayor, the comptroller, the president of the board of aldermen, and the presidents of the five boroughs. The mayor, comptroller and president of the board of aldermen, representing the city as a whole, are given 3 votes each, while the boroughs of Manhattan and Brooklyn are given 2 each, and the others, Bronx, Queens and Richmond, one each. (Charter, Secs. 226-243.)

This board prepares the city budget, which may be reduced by the board of aldermen, but cannot be increased. (Ib., Sec. 226.) Such changes made by the board are, however, subject to veto by the mayor. The board may authorize the comptroller to issue bonds for various purposes, without the consent of the aldermen. (Ib., Sec. 169.) They pass upon local improvements recommended by the local improvement districts. (Ib., Sec. 434.) The power to

grant franchises is also vested in this board. (N. Y. L. 1905, Ch. 629.)

The chief financial officer of New York is the comptroller, elected for 4 years, who is head of the department of finance. (Charter Ch. VI.) Within this department are five bureaus which are concerned with (1) the collection of revenue from interest on bonds and mortgages, and the rents of city property; (2) the collection of taxes; (3) assessments and arrears; (4) the auditing of accounts; (5) the custody of city moneys. The heads of these bureaus are appointed by the comptroller, except the custodian of funds, the city chamberlain, who is appointed by the mayor. In addition to these officers there are the commissioners of the sinking fund, consisting of the comptroller, the chamberlain, the president of the board of aldermen, and the chairman of the finance committee of the council. This body has charge of the unusually large sinking funds of the city. (Charter Secs. 204-211; also Ch. XVI on docks and ferries.) There are also two commissioners of accounts appointed by the mayor for the purpose of general audit and examination, and dependent on the comptroller.

The department of taxes and assessments, a board of five members appointed by the mayor, has charge of the valuation of such property as is locally assessed (Ib., Ch. XVII); while the revision of assessment is in the hands of the comptroller, the corporation counsel and the president of the department of taxes and assessments, who constitute a board of review. The collection of taxes is conducted by the receiver of taxes in charge of a bureau of the comptroller's office.

Special assessments for local improvements are initiated by the local improvement boards (see Public Works), approved by the board of estimate and apportionment, and spread or apportioned by the board of assessors (3 members appointed by the mayor; Ib., Sec. 943). A board of revision of assessments is made up of the comptroller, the corporation counsel and the president of the department of taxes. (Ib., Sec. 944.) Assessments for purposes of repaving are forbidden by the charter (Sec. 948), unless petitioned for by a majority of the owners.

Philadelphia.

The principal financial officers of Philadelphia are the controller, the treasurer and the receiver of taxes. There is also a board of revision of taxes, which has charge of all the assessment machinery.

The controller is elected by the people for a term of 3 years. (P. L. 1885, p. 45; Phil. Dig. Ch. 31, Sec. 1.) His term thus does not coincide with that of the mayor and the greater part of the city administration, which is 4 years. He is a county officer, and in case of vacancy the governor appoints. (P. L. 1901, p. 140.) The controller is the chief accounting officer, and has general super-

vision over the fiscal affairs of the city and county, and over the accounts and acts of all persons in the city who handle public moneys. (P. L. 1895, p. 404; Phil. Dig. Ch. 31; Sec. 8.) He is required to report annually to the councils an estimate of anticipated revenue for the coming years, as well as the receipts and expenditures of the preceding year. (P. L. 1895, p. 405; Phil. Dig. Ch. 31, Sec. 14.) He is also required to submit the estimates of expenditures and liabilities for the next year to the councils, upon which the annual appropriations and tax levy are based. (P. L. 1879, p. 130; Phil. Dig. Ch. 31, Sec. 20.) He audits all claims against the city. (P. L. 1895, p. 405; Phil. Dig. Ch. 31, Sec. 21.)

The treasurer is elected for 3 years; by the constitution (Art. XIV, Sec. 1) a re-election is prohibited. He is the custodian of the city funds, and the disbursing officer. (P. L. 1885, p. 44; Phil. Dig. Ch. 30, Secs. 1, 6.) All moneys received by any officer must be deposited daily with the treasurer. (Ib., Sec. 7.) The treasurer is paid commissions on amounts received by him, ranging from 5 per cent on sums less than \$1,000 to one-half of 1 per cent on sums over \$2,000. (P. L. 1834, p. 544; Phil. Dig. Ch. 30, Sec. 26.) The deposit of city funds is under the direction of the councils. (P. L. 1854, p. 28; Phil. Dig. Ch. 30, Sec. 28.)

The receiver of taxes is elected for 3 years. All collecting officers, in all departments, are under his supervision. He makes returns to the controller daily. (Phil. Dig. Ch. 22.)

The board of revision of taxes consists of 3 persons appointed by the court of common pleas of Philadelphia county, for a 3-year term. They have complete charge of the assessment of real and personal property; they classify real estate, as urban, suburban or rural, and farm lands, upon which different rates of taxation are levied. It should be noted that this is practically an assessment for city purposes only; since the state does not tax real estate at all, and takes only one-fourth of the 40-cent tax on enumerated personal property, and hands over the remaining three-fourths to the city. (Phil. Dig. Ch. 32.)

St. Louis.

The financial machinery of St. Louis is made up of a comptroller, treasurer, auditor, collector and board of assessors. The president of the board of assessors and all the other officers named are elected for 4-year terms. (Charter Art. IV, Sec. 1.) Their salaries are fixed by ordinance and can in no case exceed \$5,000. (Ib., Art. XVI, Sec. 18.)

The comptroller must give bond for at least \$300,000, with bondsmen approved by the mayor and upper house of the council. (Ib., Art. IV, Sec. 20.) He exercises general supervision over the fiscal affairs of the city, including the collection and retention of the disbursement of all money and revenue and the

all city property assets and claims. With the advice and consent of the mayor he sees that the property interests of the city have proper legal protection. He prescribes rules and regulations for all accounts, reports and settlements connected with the fiscal affairs of the city. It is also his duty to see that liabilities are not incurred or expenditures made without authority of law and that appropriations are not overdrawn. With the consent of the mayor the comptroller may perform other duties not inconsistent with the charter. He is required to make an annual report to the municipal assembly on the financial condition of the city and to report to the mayor whenever so requested. The books of all city departments may be examined by him and he has a seat in either branch of the assembly, with the right to debate any matter pertaining to his department. Ordinances authorizing disbursements must be countersigned by him with the statement that their requirements can be met. He also has power to correct manifest errors in assessments. (Charter Art. IV, Sec. 20; Art. V, Sec. 26.)

The treasurer must furnish bond for at least \$500,000, with not less than five securities approved by the mayor and the upper house of the council. (Charter, Art. IV, Sec. 22.) He performs the usual duties incumbent on such officers. Money collected by any officer of the city must be deposited in the treasury at least once a day unless otherwise provided by ordinance. The books of the treasurer are open to the inspection of the members of the assembly, the mayor or comptroller at any time, and he must report each day to the comptroller and mayor the balance in the treasury. (Ib.) He also makes a detailed annual report to the mayor and a similar report quarterly to the comptroller. (Charter Art. IV, Secs. 47, 48.) The treasurer assists in selecting the bank or banks which will give the highest rate of interest on the city funds. Any bank selected is required to give an approved bond of \$500,000, and no greater amount can be deposited in any one bank. (Mo. R. S., Sec. 6251.)

The auditor is the general accountant of the city. His bond must be not less than \$100,000 with securities approved by the mayor and upper house of the council. (Charter Art. IV, Sec. 21.) He receives and preserves all papers relating to the fiscal affairs of the city and examines and adjusts unsettled accounts, claims and demands against the city and draws warrants on the treasurer for their payment. (Ib.) The auditor is required to make an annual report to the mayor and a quarterly report to the comptroller. (Ib., Secs. 47, 48.) Settlements with the fiscal officers are adjusted by the comptroller and certified by him to the auditor at least once a month. (Ib., Art. V, Sec. 8.)

The collector must furnish bond in a sum prescribed by ordinance but not less than \$200,000. (Charter Art. IV, Sec. 24.) He collects all state, city and school taxes, licenses, wharfage and other

claims which the city may have against any person. All city collections are paid over to the treasurer each day. The state and school taxes are paid over by the collector as provided by law. (Ib.) He collects all other revenues except water rates; appoints his deputies, for whom he is responsible; and reports annually to the mayor and quarterly to the comptroller. (Ib., Art. V, Secs. 31, 33; Art. IV, Secs. 47, 48.)

There is a separate collector of water rates appointed by the mayor and confirmed by the upper house of the council for a term of 4 years. His salary is fixed by ordinance, but may not exceed \$3,000. He must furnish bond for \$100,000. (Ib., Art. VII, Sec. 7-9.)

The board of assessors is composed of a president elected by the people and an assessor from each assessment district appointed by the mayor and confirmed by the upper house of the council. The president of the board must be at least 30 years old and have been a resident of the city for not less than 7 years. (Charter Art. V, Secs. 16, 17.) The district assessors under the direction and superintendence of the president of the board make the assessment in their respective districts. The district assessors begin the assessment on June 1st of each year and complete it and make their final report to the president on or before Jan. 1st. From these reports the president of the board makes up the assessment books which must be completed by the third Monday in March, when public notice is given that the books are open for inspection. (Ib., Art. V, Secs. 83, 84.)

There is also a board of equalization consisting of the president of the board of assessors who is its president, and "four discreet and experienced real estate owners" of the city who are residents of 4 years' standing, appointed for terms of one year by the circuit court of the eighth judicial circuit. (Charter Art. V, Secs. 24, 26.)

For the duties of the board of public improvements see under 2 "Public Works."

San Francisco.

The chief financial officers in San Francisco are the auditor, the treasurer, the assessor and the tax collector.

The head of the finance department is the auditor, who is elected for a 2-year term at a salary of \$4,000. He is the chief accounting officer of the city and county. (Charter Art. IV, Ch. 2, Sec. 1.) The auditor audits all demands on the treasury. (Ib., Secs. 3-8.) He also prepares the annual estimates and exhibits them to the supervisors. (Ib., Art. III, Ch. 1 Sec. 2.)

The treasurer is elected for a 2-year term at a salary of \$4,000. He is custodian of city funds; and is forbidden to deposit public moneys or use them; or to pay them out, except on demands duly made and approved by the auditor. He must make daily balances;

file monthly reports to the mayor, and publish quarterly statements. City moneys are not placed on deposit with banks, but are kept in a joint custody safe, which can be opened only by the auditor and treasurer jointly. (Ib., Art. IV, Ch. 3.)

The treasurer is required to distribute the city moneys into distinct funds: the general fund, the park fund, the library fund, the surplus fund, the special deposit fund, the sinking fund and the common school fund. (Ib., Art. III, Ch. 2; Art. VII, Ch. 3, Sec. 9.)

The assessor is elected for a term of 4 years at a salary of \$8,000. He appoints deputies and assistants, and assesses taxable property. (Ib., Art. IV, Ch. 4) as amended by Laws of 1903, p. 586.)

The tax collector is elected for 2 years at a salary of \$4,000. He appoints deputies and clerks. He collects license fees and taxes; and is debtor to the city for all taxes levied, including delinquent taxes, until the supervisors release him by resolution. (Ib., Ch. 5.)

Washington.

The organization of the financial administration is in the hands of the commissioners of the district. The commissioners transmit their annual estimates to the Secretary of the Treasury, who lays them before Congress.

(b) *Great Britain and Canada.*

England.

The council from time to time appoints a fit person, not a member of the council, to be treasurer of the borough. He holds office during the pleasure of the council. A vacancy in the office must be filled within 21 days after its occurrence. The council may require him to give such security as they think proper, and they also fix his salary.

All payments to and out of the borough fund are made to and by the treasurer. All payments to the treasurer go to the borough fund. The treasurer makes up his accounts half-yearly to such dates as the council, with the approval of the Local Government Board, appoints. Within one month from the date to which he is required to make up his accounts, he must submit them with the necessary vouchers and papers to the borough auditors. After the audit of the accounts for the second half of each financial year, the treasurer must print a full abstract of his accounts for that year. (45 and 46 Vict. C. 50, Sec. 18, 27, 142.)

The duties commonly assigned to the American comptroller are performed in England by the auditors. There are 3 borough auditors, 2 elected by the people, called elective auditors, and one appointed by the mayor, called the mayor's auditor. An elective auditor must be qualified to be a councillor, but may not be a member of the council or hold the office of town clerk or treasurer. The mayor's auditor must be a member of the council. The term of office of each auditor is one year. There is no provision in the code as to the remuneration

of these officers. The only duty of the auditor seems to be that of examining the treasurer's accounts and vouchers twice in each year, and of making annual reports to the council. (45 and 46 Vict. C. 50, Secs. 25, 27.)

Scotland.

The financial officers of Scotch cities are the treasurer and the collector. They are appointed by the council and hold office during their pleasure. Before entering upon their duties they must give bond for such amount as the council thinks reasonable. Any treasurer or collector who is convicted of wilfully secreting or not accounting to the council for any sum of money received by him, as treasurer or collector, forfeits triple the amount thereof, besides being liable to be punished according to law, and to be deprived of his office. The treasurer or collector must deposit all money received by him in a chartered or other bank selected by the council upon an account to be opened in the corporate name of the council. (63 and 64 Vict., C. 49, Secs. 84, 85.)

Canada.

Every municipal council appoints a treasurer who may be paid either by salary or by a percentage. Every treasurer, before entering upon the duties of his office, must give such security as the council directs and every year the council must inquire into the sufficiency of the security given by him.

The treasurer receives and keeps all money belonging to the corporation and pays it out to such persons and in such manner as the laws of the Province and the council directs.

The manner in which the treasurer must keep his books is strictly provided for by law. The cash-book is at all times open for inspection by any member of the city council and by the auditors and must be produced by the treasurer at all meetings of the council at which he is directed to produce it. It must show the balance on hand in two items, (1) the balance deposited to the credit of the municipality and (2) the balance in the hands of the treasurer.

The treasurer must deposit all money received by him in such banks as are approved by the council. He prepares and submits to the council twice a year a correct statement of the money at the credit of the corporation. (Consolidated Municipal Act, Sec. 292) and he must furnish annually to the secretary of the Bureau of Industries on a schedule provided by the secretary and approved by the Lieutenant-Governor in council, any information or statistics regarding the finances or accounts of the municipality that may be required. If a treasurer of any municipality fails to make such returns, the Secretary of the Bureau of Industries directs the treasurer of the province to retain in his hands all money payable to such municipality. (Ib., Secs. 288, 290, 291, 292, 293.)

The council of the city of Toronto appoints two auditors to hold office during their pleasure. The principal duty of the auditors is to audit the books of the treasurer. The treasurer prepares in duplicate, not later than the first of April in each year, an abstract of the receipts and expenditures of the city for the preceding year, and the assets and liabilities of the city at that date, and submits the same to the auditors for inspection. They audit this abstract with the treasurer's books, and make a report on all accounts audited by them, and a special report as to any expenditures made contrary to law. They must report annually to the Secretary of the Bureau of Industries and to the council. Their report may be inspected at any time by any resident of the municipality. Every month the auditor must examine and report upon all accounts affecting the corporation, or relating to any matter under its control. They must also make a report upon the condition and value of the securities given by the treasurer. They may inspect the books of the bank in which public money has been deposited, and report on the condition of the accounts. Upon the report of the auditors, the council finally audits the accounts of the treasurer and collector. (Ib., Secs. 300, 302, 304, (3) (4), 307.)

The council may appoint an assessment commissioner, who, in conjunction with the mayor, may from time to time appoint such assessors and valuers as may be necessary. Such commissioner, assessors, and valuers constitute a board of assessors. The council may assign the assessors and assessment districts within which they are to act and may prescribe regulations for governing them in the performance of their duties. (Ib., Sec. 295, 296.)

(3) Law departments.

Baltimore.—The city solicitor, who is the head of the law department, is appointed by the mayor, with the approval of the second branch of the council, for a term of 4 years. He must have practised law in Baltimore for 10 years. His salary is \$4,000. (Charter, Secs. 60, 61.) He appoints three assistants, one of whom is prosecuting attorney. (Ib., Sec. 62.)

Boston.—The legal department is established and organized by ordinance only. It is in charge of a corporation counsel appointed by the mayor. (See Boston Municipal Register, 1905, pp. 36, 63.)

Chicago.—The city council has established the office of corporation council under authority given by law. (Ill. R. S., Ch. 24, Sec. 73.) The corporation counsel is appointed by the mayor for an indefinite term, and has power to appoint his assistants. There is also a prosecuting attorney, appointed by the mayor. The office of city attorney, which was filled by election, was abolished in 1905, and the corporation counsel made head of the law department. (Ill. R. S., Ch. 24, Sec. 193 al.)

Cleveland.—The solicitor is elected at large for a 2-year term. His salary is fixed by the council. (Ohio Law for Municipalities, 1902, Secs. 137, 126.) He appoints his own assistants. (Ib., Sec. 129.) In addition to his duties as legal adviser of the corporation, he is prosecuting attorney. (Ib., Sec. 137.)

Denver.—The attorney for the city and county is appointed by the mayor, and holds office during pleasure. (Charter, Secs. 150, 167.) His salary is \$4,600. (Ib., Sec. 153.) He appoints his assistants and fixes their salaries, within his appropriation. (Ib., Sec. 154.) All bills for ordinances concerning franchises, licenses or taxation must be referred to him for his opinion. (Ib., Sec. 33.)

Detroit.—The corporation counsel is appointed by the mayor for a term of 4 years; he must have practised his profession for 10 years. (Charter, Sec. 349.) His salary is \$5,000. (Ib., Sec. 351.) He appoints a chief assistant and three other assistants. (Ib., Sec. 354.) The corporation counsel is prosecuting attorney as well as legal adviser and representative of the city. (Ib., Sec. 352.)

New Orleans.—The city attorney is appointed by the mayor, with the consent of the council for a term of 6 years. (Charter, Sec. 36.) He appoints such assistants as are granted him by the council. (Ib.) Like other heads of departments he has a seat in the council, and the right of debate. (Ib., Sec. 26.) Like all other city officers, he is forbidden to be a member of any political committee or convention. (Ib., Sec. 110.)

New York.—The head of the law department is the corporation counsel, appointed by the mayor for an indefinite term. (Charter, Sec. 255.) He appoints his assistants. (Ib., Sec. 256.) He may establish such bureaus as he thinks necessary, and assign assistant corporation counsels to take charge of them. (Ib., Sec. 258.) The charter creates the bureau of street openings (Ib., Sec. 258); the bureau for the recovery of penalties (Ib., Sec. 259); and the bureau for the collection of arrears of personal taxes. (Ib., Sec. 260.)

Philadelphia.—The city solicitor is elected for a term of 3 years. (P. L., 1885, p. 47; Phil. Dig., Ch. 23, Sec. 7.) He appoints his assistants and special counsel. (Phil. Dig., Ch. 23, Sec. 5.) He has the usual duties of legal advice and service.

St. Louis.—The chief legal officer is the city counselor, who is appointed by the mayor, subject to confirmation by the council, for a term of 4 years. (Charter, Art. IV, Secs. 2, 9.) He is general legal adviser of the city. (Ib., Sec. 32.) There is also a city attorney, appointed for the same term and in the same manner. (Ib., Secs. 2, 9.) His duties are nowhere defined in the charter. He is subject to the control of the city counselor. (Ib., Sec. 32.)

San Francisco.—The city attorney is elected for a term of 2 years. He must have been qualified to practise law for 10 years. The salary is \$5,000. (Charter, Art. IV, Ch. 2, Sec. 1.) He appoints assistants, and other employees, and may remove them at will, and prescribe their duties. (Ib., Sec. 5.) His duties are the usual ones.

(4) Civil Service.

Boston.—The control of the civil service in Boston is vested in the state civil service commission, appointed by the governor with the advice and consent of his council. The commissioners prepare rules regulating the selection of persons to fill appointive positions and the selection of persons to be employed as laborers in the city. Such rules take effect only when approved by the governor and council.

The following officers are not affected by the civil service rules: (1) Judicial officers, (2) Officers elected by the people or by the city council, (3) Officers whose appointment is subject to confirmation by the city council, (4) Heads of principal departments of the city, (5) Employees of the treasurer and collector of taxes, (6) Two employees of the city clerk, (7) Teachers of the public schools, (8) Secretaries and confidential stenographers of the mayor, (9) Police and fire commissioners and chief marshals.

Applicants for position in the labor service are registered four times each year, and appointed in order from the lists. For other positions examinations are held. The commissioners notify the city treasurer to refrain from paying salary to any person appointed in violation of the rules. (Revised Laws Mass., 1902, Ch. 19.) No person appointed under civil service rules may be removed except upon charges and after hearing. (Mass. Acts and Resolves, 1904, p. 207.)

Chicago.—There are 3 civil service commissioners appointed by the mayor for a term of 3 years (one retiring each year). (Ill. R. S., Ch. 24, Sec. 446.) The commissioners receive a salary of \$3,000 per year, and are subject to removal by the mayor. (Ib., Secs. 446, 447.) The commission employs a chief examiner who receives a salary of \$3,000 per year.

The commissioners classify all the officers and places of employment in the city with reference to examination except officers who are elected by the people or by the city council pursuant to the charter, or whose appointment is subject to confirmation by the city council, judges and clerks of election, members of any board of education, the superintendent and teachers of schools, heads of any principal department of the city, members of the law department and one private secretary of the mayor. (Ib., Sec. 456.)

The candidates for positions whose general average standing is not less than the minimum fixed by the rules of the commission, and who are otherwise eligible, take rank upon the register in order of their

excellence as determined by examination, without reference to priority of time of examination. (Ib., Sec. 453.) When once appointed no officer or employee can be removed or discharged except for cause, upon written charges and after an opportunity to be heard in his own defense. Charges then investigated by the civil service commission or some officer or board appointed by the commission to conduct the investigation, and the decision, when approved by the commission, is certified to the appointing officer, who enforces it. (Ib., Sec. 457.)

Denver.—The civil service commission is composed of 3 persons of "known devotion to civil service reform" appointed by the mayor for a term of 6 years (one retiring every alternate year). (Charter, Sec. 185.) They serve without compensation. (Ib., Sec. 186.) The mayor may, on written charges, remove any commissioner for any cause which renders him unfit for the position. (Ib., Sec. 185.)

The classified service includes only the policemen and firemen and other officers and employees of the department of fire and police and the officers and employees of the department of public utilities and works, excepting, however, the chief of police, engineer, commissioner of highways, chief inspector of the board of public works, and members of the boards of fire and police and public works and one employee under each board who acts as secretary. After 4 years from the adoption of the charter, the council may extend these provisions to any or all departments. (Ib., Sec. 192.)

When a position is to be filled, the commission certifies the names of the 3 highest applicants, one of whom must be appointed. (Ib., Sec. 197.) In no case, however, is a person certified for appointment whose standing is less than 65 per cent. (Ib., Sec. 195.) If the persons certified are shown to me unsuitable, the commission certifies an additional name. (Ib., Sec. 197.)

Discharges from the classified service, or reductions in grade or compensation or both, may be made for any cause, not political or religious, which will promote the efficiency of the service. There must be written charges by the person in authority and the employee must be given time to answer. The commission may examine the facts and if a person has been wrongfully discharged, may reinstate him. (Ib., Sec. 204.)

New Orleans.—There is a civil service law for New Orleans which provides a board, consisting of the mayor, comptroller, treasurer and 2 persons appointed by the mayor. Appointments may be made without restriction from the whole eligible list. All the stringent features of previous laws are repealed. (Laws of La., 1900, p. 89.)

New York.—The mayor appoints 3 or more suitable persons, not more than two-thirds of whom can be members of the same political party, to act as civil service commissioners. (Charter, Sec. 123.) Proper provision must be made in the budget for the expenses

of the commission. The board has power to appoint a secretary, examiners and such other subordinates as may be necessary. (Ib., Sec. 123.) The commissioners are removable by the mayor, or by unanimous vote of the state civil service commission, upon the ground that the provisions of the act are not properly carried out. But in case of such removal written reasons must be filed as a public document. (Heydeckers Gen. Laws of N. Y., 1901, Ch. III, Sec. 10.)

The unclassified service comprises all elective offices; offices filled by the legislature or by the governor, except officers and employees in the executive offices; elective officers; heads of departments; persons appointed by name in any statute; legislative officers and employees; and educational positions in the public school service. (Ib., Ch. III, Sec. 8.) The classified service is divided into four divisions: (1) the exempt class, (2) the non-competitive class, (3) the labor class, and (4) the competitive class. The latter, the most important, includes all positions for which it is practicable to determine the merit and fitness by competitive examination. (Ib., Ch. III, Sec. 11, 17.) In this class the eligible person standing highest in the examination must receive the first appointment. (Ib., Sec. 13.)

Philadelphia.—The civil service commission consists of 3 commissioners "in full sympathy with the purposes of this act," appointed by the mayor for a term of 5 years, one retiring every 2 years. The president receives a salary of \$5,000, and each of the other commissioners receive \$3,000 per year. Not more than 2 of the commissioners may be adherents of the same political party. (P. L., 1906, p. 83, Sec. 2.) The commission employs a chief examiner and other necessary employees and determines their salaries subject to the approval of the mayor. (Ib., p. 84, Sec. 3.)

The civil service is divided into the unclassified service and the classified service. The unclassified service consists of all officers elected by the people, all heads of departments whose appointment is subject to confirmation by the select council, all persons appointed by name in any statute. The classified service comprises all other persons in the service of the city (Ib., p. 86, Sec. 7), and is divided into 4 divisions: (1) the exempt class, including appointments such as secretaries and confidential clerks, which may be made without examination, (Ib., p. 89, Sec. 12,); (2) the non-competitive class, including those positions not in the exempt or labor classes and which, in the judgment of the commission, it is impracticable to include in the competitive class and for which positions the board gives non-competitive examinations, (Ib., p. 91, Sec. 18,); (3) the labor class, including ordinary unskilled laborers appointed from lists of applicants, (Ib., p. 91, Sec. 18,); and (4) the competitive class, consisting of all positions and employment not included in the other 3 classes. Those in this class are subject to competitive examination, (Ib., p. 89, Sec. 13,) and the appointing officer, on request, secures from the commission the

names of 4 persons who receive the highest averages at examinations, one of whom is chosen for a probationary period of 3 months. (Ib., p. 90, Sec. 14,) when, if retained, he is permanently appointed. (Ib., p. 86, Sec. 8.)

Removal must be for cause, with written charges by removing officer and right of defense by accused. A copy of reasons for removal must be furnished to the commissioners and entered upon the public records. (Ib., p. 92, Sec. 20.) A subordinate employee may be suspended for a reasonable period, not exceeding 30 days, but successive suspensions are not allowed. (Ib., p. 92, Sec. 20.)

San Francisco.—The civil service commission is composed of 3 persons appointed by the mayor and known by him "to be devoted to the principles of civil service reform." The commissioners serve for 3 years, (one retiring every year), and receive an annual salary of \$1,200. Appointments are made so that not more than one commissioner belongs at any time to the same political party. (Charter, Art. XIII, Sec. 1.) The commissioners employ a chief examiner at a salary of \$2,400 (Ib., Sec. 16), and they may designate officials of the city to act in this capacity without compensation. (Ib., Sec. 5.)

The offices and departments under civil service are the county clerk, the assessor, the tax collector, the sheriff, the auditor, the recorder, the coroner, the clerks and stenographers of the justice and police courts, the board of public works, the police department, the fire department, the board of election commissioners, the board of health and all boards and departments controlling public utilities. Certain employees in these offices and departments are exempt from the provisions of the civil service act, but all other appointments for city service must comply with its requirements. (Ib., Sec. 11.) Laborers are selected according to priority of application. (Ib., Sec. 5.)

The commissioners, on notification of a vacancy in any department certify to the appointing officer the name and address of one or more candidates, not exceeding 3, who stand highest upon the register, in the particular class. Appointments are then made on probation, for such a period as is fixed by the board, not exceeding 6 months, after which, if the applicant has not been previously discharged, his appointment is deemed complete. (Ib., Secs. 7, 9, 10.)

Dismissals, except for periods of 30 days or less, (Ib., Sec. 12,) must be for cause on written charges, which are heard by the commission or some officer appointed for that purpose by the commission. (Ib., Sec. 12.)

2. DEPARTMENTS OF PUBLIC WORKS AND PUBLIC SERVICES.

Baltimore.—The administration of public works in Baltimore is centered in the department of public improvements. (Charter, Secs. 84, 89.) This is composed of the city engineer, the president

of the water board, the president of the harbor board and the inspector of buildings. All of these are appointed by the mayor for a term of 4 years and are removable by him, although after the first six months, such removal may be made for cause only. This board has no power over the sub-departments, but its members meet for general consultation, and, further, ordinances for public improvements must, after their first reading in the house where they originate, be referred to the board for its opinion. (Ib., Sec. 85.) The city engineer has supervision of the streets in respect to construction, curbing and paving. (Ib., Sec. 86. It is required that the engineer shall have been 5 years a civil engineer in active practice, and in charge of responsible work. The water board (Charter, Sec. 87), is composed of 5 persons appointed by the mayor, and has charge of the water supply of the city. The head of the board is the water engineer, whose qualifications are the same as those of the city engineer. The harbor board, (Ib., Sec. 88), is constituted in the same way as the water board, namely, the mayor's appointment of 5 persons. The chief of these is the harbor engineer, who must be qualified as are the other 2 engineers. All subordinates employed in these departments are appointed by the engineers, subject to the approval of their respective boards.

The inspector of buildings, (Charter, Sec. 89), is provided for under the department of public safety, and his principal duties are there discussed. (Ib., Secs. 79, 83.) As a member of the department of public improvements his function is to superintend the construction and repair of city buildings, unless otherwise provided by ordinance.

Other departments concerned with public improvements are the commissioners for opening streets—a sub-department under Review and Assessment. (Charter, Sec. 172.) These commissioners, 3 in number, are appointed by the mayor for a term of 3 years. They have power over the opening, extending and widening of streets, may assess benefits for such improvements, or award compensation in case of damages. Special assessments for street cleaning, paving and repairing may be ordered by the mayor and the council. (Ib., Secs. 6, 833. For detailed provisions see Charter pp. 20, 22.) There is also a sewerage commission created by act of 1901, (Ch. 349), composed of 6 citizens appointed by the mayor. This commission is authorized to construct a sewerage system for the city, and is empowered to issue bonds to the amount of \$10,000,000, for that purpose. A burnt district commission was also created by the Act of 1904, (Laws of Md., 1904, Ch. 87.) This is composed of 4 persons appointed by the mayor. They have power to lay out, widen and straighten streets; to open public squares and markets; to lay out additions and extensions to wharves and docks; establish building lines and width of sidewalks. The commission must report its plans to the board of estimates, the board of public improvements and the council. The council is authorized to expend \$4,422,460.74. (Ib., Sec. 29.) An Act of the same year (1904, Ch. 433), provided for a topographical survey commission, composed

of the mayor, comptroller and register. No streets in the annexed territory may be opened or any dedication accepted, without the consent of this body, (or unless in accordance with a general plan adopted by the council in 1898.) There is also a special annex improvement commission, with power to issue bonds to the amount of \$2,000,000. (Laws of Md., 1904, Ch. 274.)

In addition to these authorities, Baltimore has a superintendent of lamps and lighting (Charter, Sec. 204), a superintendent of public buildings (Ib., Sec. 207), and an art commissioner. (Ib., Secs. 201-203.)

Boston.—Boston has no department of public works, but supports a series of departments performing such functions. The work is divided as follows:

The engineering department (Boston Munic. Register, p. 50), under the city engineer, appointed annually by the mayor, has charge of the construction of public engineering works. The street department (Ib., p. 80) under the superintendent of streets, who is also appointed annually by the mayor, has the following sub-divisions: Bridge Division, Ferry Division, Paving Division, Sanitary Division, (including garbage removal), Sewer Division, Street Cleaning and Street Watering.

The street laying-out department (Munic. Register, p. 87), under the board of street commissioners composed of 3 commissioners chosen for 3 years, has charge of laying out streets, and the special assessment for costs of such street improvements as are ordered by the council or petitioned for by a majority of the owners in interest. The water department is in charge of a water commissioner, appointed triennially by the mayor (Ib., p. 88; Mass. Acts and Resolves, 1895, Ch. 449, Secs. 12, 13), but there is also a Metropolitan water and sewage commission, which has control of the water supply outside Boston.)

The lamp department is in charge of street lighting. The head of the department is the superintendent of lamps, appointed annually by the mayor. (Ib., p. 62.)

The wire department is in charge of the supervision and inspection of all electric wires and cables, in the interest of public protection. (Munic. Register, p. 89.) The commissioner at the head of the department is appointed by the mayor for a term of 3 years. (Ib., p. 37.)

The commission on the height of buildings (Mass. Acts and Resolves, 1904, Ch. 333; 1905, Ch. 383), consisting of 3 members, is appointed by the mayor, for the purpose of dividing Boston into 2 districts, residential and commercial. The Acts provide for limits on the height of buildings in such districts.

The printing department has charge of all city printing (Munic. Reg., p. 72.) ; the market department has control over the Faneuil Hall market. (Ib., p. 67.)

There are 2 commissions of minor importance having charge of bridges. The Boston and Cambridge Bridge Commission has complete charge of all bridges between Boston and Cambridge. It consists of 2 commissioners, one appointed by the mayor of Boston and one by the mayor of Cambridge. (Munic. Reg., p. 94.) The Cambridge Bridge commission has charge of the construction of 2 new bridges over the Charles river. It consists of the mayors of Boston and Cambridge *ex officio*; and a third member appointed by them. (Ib., p. 96; Mass. Acts and Resolves, 1898, Ch. 467.)

For the relation of the art department to public works see "Art departments and commissions," under 4, "Educational and Recreation, *infra*."

Chicago.—The Cities and Villages Act leaves the city free to organize the administration of public works as it sees fit. A department of public works has been created by ordinance. (Chicago Rev. Code, Ch. 42.) This department includes the commissioner of public works, the deputy commissioner, the city engineer, the superintendent of streets, the superintendent of sewers, the superintendent of maps, and the superintendent of special assessments. The duties of the department are stated in the code as follows: "It shall be the duty of said commissioner of public works, subject to the provisions hereof and the ordinances of the city, to take special charge and superintendence of all streets, alleys and highways in the city, and of all walks and crosswalks, bridges, viaducts, docks, wharves, public places, public landings, public grounds and parks, in said city; of all markets and market places and other public buildings in the city belonging to the city, and of the erection of all public buildings; of all works for the widening, deepening or dredging of the Chicago river and its branches, and of the harbor of said city; of all sewers and works pertaining thereto; and of the water-works of said city; and he shall collect all water rates and fees for the use of water and for permits issued in connection with the water-works system, and all sewerage permits and licenses; Provided, that nothing herein contained shall be construed as relating to the construction of local improvements paid for in whole or in part by special assessment." (Chicago Rev. Code, Sec. 1842.)

A department of local transportation has also been established by the council. (Ib., Secs. 1932, 1839.) In charge of the department is a local transportation expert, who acts as official adviser in relations between the city and the transportation companies.

There is also a department of electricity, in charge of a city electrician, appointed by the mayor. (Ib., Sec. 800, et seq.)

The state law provides that a board of local improvements may be created, to consist of the superintendent of special assessments and 4 other members appointed by the mayor subject to confirmation by the council. (Rev. Code, p. 814, et seq.) This board has power to order local improvements, either on petition or on its own motion,

subject to approval by the council. Ordinances for local improvements to be paid for in whole or in part by special assessments cannot be considered or passed by the council unless first recommended by the board of local improvements. (Ill. R. S., Ch. 24, Sec. 511.)

Cleveland (and Cincinnati).—A department of public service administered by 3 or 5 directors (the number of directors to be fixed by ordinance or resolution of the council) elected for a term of 2 years, supervises the improvement and repair of streets, avenues, alleys, lands, lanes, squares, wharves, docks, landings, market houses, bridges, viaducts, aqueducts, sidewalks, sewers, drains, ditches, culverts, ship channels, streams and water courses, and the lighting, sprinkling and cleaning of all public places, except as otherwise provided for by law. (Ohio Law for Munic., 1902, Secs. 138, 140.) They also have the management of all municipal water, lighting and heating plants, parks, baths, market houses, cemeteries, crematories, sewage disposal and farms, as well as of all public buildings and all other public works and institutions unless otherwise provided for by law. (Ib., Sec. 139.)

Directors of public service may make contracts for amounts not exceeding \$500. If exceeding that amount they must first obtain the authorization of the city council. (Ib., Sec. 143.) They may employ superintendents and employees, etc., and may establish sub-departments (Ib., Sec. 145.)

When any city erects a public or municipal building, the directors of public safety may provide for the employment of 3 persons to be named by them, of whom at least 2 must be architects, employed at a salary not exceeding \$5,000. These 3 persons have, under the supervision of the department of public service, control of the location of all public or municipal buildings, except market houses and halls, and of their architecture. (Ohio Law for Munic., Sec. 216, as amended by Act of 1904, Ohio Laws, 1904, p. 255.)

The directors of public service may name a commission for the erection of a city hall. The commission must consist of 5 citizens of the city named by the directors of public service. Such a commission has power to acquire, in the name of the city, land for city hall purposes and also have power to employ architects and approve plans and specifications. They make all contracts for the finishing and construction of the city hall, subject to the approval of the directors of public service, and may appoint a clerk and other employees.

The directors of public service may also appoint a commission of 3 persons to contract (subject to the directors' approval) for the building of a market house. (Ib., Sec. 216.)

Denver.—The board of public works in Denver is composed of the commissioner of public works, who is president of the board, the engineer, and the commissioner of highways. All of these members are appointed by the mayor for a term of 4 years, and are removable by him, (Charter, Sec. 82), after a hearing on written charges pre-

ferred. At least one member of the board must be of a different political faith from the other two. This board has full charge over the construction and maintenance of all public and local improvements, including streets, sewers, sidewalks, bridges, all public buildings, (except fire, police and hospital buildings,) also of street cleaning, laying of wires, conduits, etc. (Ib., Sec. 83.) The board has furthermore power to lay out, open and vacate streets and alleys, subject to ordinance, and to order, contract for and execute all street improvements (Ib., Sec. 84); to establish and improve boulevards and adopt rules regulating traffic upon them. (Ib., Sec. 85.) The board has full charge and control of all public utilities belonging to the city. (Ib., Sec. 83.)

The board of public works acts as the chief authority on local improvements. Special assessments for street improvements are initiated by the board. (Ib., Art XI.) Such improvements may be ordered by the board and "shall be authorized by ordinance, which ordinance shall be in the form recommended by the board, by endorsement thereon, and shall not be subject to amendment by the council." (Ib., Sec. 271.) In the case of improvements paid for wholly or in part by assessments on the property benefitted, the work must be done by contract; other improvements may be constructed directly by the board. (Ib., Sec. 270.) Contracts must be let by the mayor upon recommendation by the board. (Ib., Sec. 270.)

The charter provides for a bureau of engineering and surveying under the control of the engineer of the board (Ib., Sec. 89); and also a bureau of highways under the commissioner of highways.

Detroit.—The department of public works is in charge of a commissioner appointed by the mayor for a term of 4 years. (Charter, Ch. XV.) He has power to establish a system of grades for the streets; to establish a system of sewers; to supervise the grading, paving and cleaning of streets; has charge of the repair of docks, bridges, sewers, walks and all public buildings not otherwise provided for. (Ib., Sec. 393.) The commissioner is also a member of the board of estimates. (See Finance.) He has power to appoint a city engineer. (Ib., Sec. 394.)

There is also a board of water commissioners, 5 in number, appointed for 5 years, by the city council on the nomination of the mayor. (Ib., Sec. 653.) This board has charge of the water supply of the city, may make necessary rules and regulations governing the same, and has power to issue bonds for the purposes of water supply.

The public lighting commission is composed of 6 members, appointed by the mayor for a term of 6 years (Charter, Ch. XIII); and has charge of the electric lighting system of the city.

Special assessments for local street improvements may be ordered by the council. (See Charter, Sec. 265, et seq.) The law pro-

vides that the cost of paving and repairing must be paid from the repairing fund of the city. (Ib., Sec. 169.)

New Orleans.—The commissioner of public works in New Orleans is an elective officer, chosen for a term of 4 years. (Charter, Sec. 22.) He has "general charge and superintendence of all matters relating to water-works, railroads, levees, weights and measures, manufactories, streets, sidewalks, pavements and wharves; the construction and repair of bridges and drainage of the city in so far as the same may be compatible with the laws and duties of the board of health." (Ib., Sec. 32.)

The city engineer is also elected for a term of 4 years. He is required to be a civil engineer, in good standing, and must have practised his profession for at least 5 years. (Ib., Sec. 34.) He prepares plans and estimates; superintends the construction of all public works; has charge of all repairs to street and sidewalk pavements; gives lines and grades for all sidewalks, streets and railroads, etc.

Public buildings, except the city hall, are under the charge of the commissioner of police and public buildings, an elective officer, chosen for a term of 4 years. (Ib., Sec. 33.) The city hall is under the control of the mayor and the various executive officers.

Local improvements by special assessment are ordered by the council upon petition of one-fourth of the owners of abutting property, or without such petition upon a two-thirds vote of the council. (Ib., Secs. 97, et seq.)

New York.—The administration of public works of New York City falls under the departments of water-supply, gas and electricity, street cleaning, bridges, docks and ferries, and of the board of water-supply, the board of assessors, the local improvement board, and the municipal art commission. At the head of each of the departments is a commissioner appointed by the mayor and removable by him.

The department of water-supply, gas and electricity has charge of the city water-works, with supervision over the gas and electric light supply furnished to the city. Related to this department is the board of water-supply (N. Y. Acts of 1905, Ch. 724), which is composed of 3 commissioners appointed by the mayor at a salary of \$12,000. This board has power to examine sources of water supply, acquire lands and construct reservoirs, aqueducts, etc. The plans of his board must first be approved by the state water-supply commission. (Ib., Sec. 46.)

The department of street cleaning (Charter, Ch. XI, Art. 3), has charge of street cleaning and garbage disposal, with power to make rules and regulations governing the use of sidewalks and gutters, subject to approval by the board of aldermen. (Ib., Sec. 534.) Street cleaning in the boroughs of Queens and Richmond is under the jurisdiction of the borough presidents. The work of street cleaning may be done directly or by contract. (Ib., Secs. 541, 544.)

The department of bridges (Ib., Ch. XI, Title 4) has charge of the construction, maintenance, repair and management of all bridges not included in parks or controlled by borough presidents; also of certain tunnels. (See Rapid Transit Commission.)

The department of docks and ferries (Ib., Ch. XVI, Title 1) has control over the water-front belonging to the city with charge of the "repairing, building, rebuilding, maintaining, altering, strengthening, leasing and protecting said property," and of cleaning, dredging and deepening in and about it. (Ib., Sec. 818.) The department may also alter the plan of the water-front, subject to the approval of the commissioners of the sinking fund. It may acquire wharf property or rights, construct ferries and docks, regulate wharfage and dockage charges, lease the wharf property of the city with the consent in these respects of the commissioners of the sinking fund, and may also make rules governing dock property. The department may also lease ferry privileges with the consent of the commissioners.

Each of the 5 boroughs of New York elects a president, who has certain powers in the field of public works. There are also 25 local improvement districts, each having a local board, composed of the president of the borough and the aldermen who represent aldermanic districts within the improvement district. Borough presidents have control over the grading, paving and repairing of streets; of the removal of incumbrances; the issuing of permits to builders and others to use or open the streets, the construction and maintenance of all tunnels and bridges within the borough (with some exceptions); of all subjects relating to public sewers and drainage of the borough; of the construction, repair, cleaning and maintenance of all public buildings except school-houses, fire and police stations (and a few other exceptions); of the care of all public offices in the borough; of the location, direction, and maintenance of public baths and comfort stations. In addition to these powers, the presidents of the boroughs of Queens and Richmond have charge of street cleaning and garbage disposal. In order to discharge these administrative duties, the president of each borough is authorized to appoint a commissioner of public works who acts under his direction and control. (Charter, Secs. 382, 383).

Local improvements, where the cost is to be met in whole or in part by assessments upon the property benefited, are initiated by the local improvement board. (Ib., Ch. X, Titles 2, 3.)

Philadelphia.—Under the department of public works are included "water works and gas works owned and controlled by the city, the supply and distribution of water and gas, the grading, paving, repairing, cleaning and lighting of streets, alleys and highways, the construction, protection and repair of public buildings, bridges, and structures of every kind for public use, public squares, real estate (except such as now or hereafter may be used for edu-

cational or police purposes), surveys, engineering, sewerage, drainage, and dredging, and all matters and things in any way relating to or affecting the highways, footways, etc. of the city." (Phil. Dig., Ch. 13, Sec. 2; P. L., 1885, p. 42.) In general charge is the director of public works, appointed by the mayor, and under him are the chiefs of the bureaus of water, filtration, gas, highways, surveys, city ice boats, street cleaning and lighting. (Phil. Dig., Chs. 14-21.)

The bureau of highways has jurisdiction over street paving, grading, curbing repairs, street openings and street obstructions. (Ib., Ch. 16.)

The bureau of surveys is in charge of a chief engineer and surveyor who, with fourteen district surveyors, appointed by the director, forms a board of surveyors. This bureau supplies surveys for street bridges and other improvements, and has supervision of the construction of sewers and drains.

St. Louis.—Public works are under the control of a board of public improvements, made up of the street commissioner, the sewer commissioner, the water commissioner, the harbor and wharf commissioner and the park commissioner, together with the president of the board. All of these officers are appointed by the mayor for a term of four years, with the exception of the president, who is an elective officer. (Charter, Art. IV, Sec. 3.) The board is required to meet at least once a week to consider the general work of the department. They have power to levy special assessments for purposes of street improvement, including sprinkling and lighting (Ib., Art. VI, for procedure), with the approval of the assembly. The president has general supervision over the work of all the departments and special charge over such improvements as are not specially provided for in the charter.

The street commissioner has special charge of the construction, reconstruction, repairing and cleaning of public streets, except parks. (Ib., Art. IV, Sec. 35.) The sewer commissioner has charge of the construction, repairing and cleaning of all sewers and their appurtenances. (Ib., Art. IV, Sec. 36.) The water commissioner has charge of the water supply, but does not collect water rates. (Ib., Sec. 37.) The harbor and wharf commissioner has charge of wharf construction and repair and the enforcement of city ordinances relating to the wharves and levees and to steamboats and other vessels. (Ib., Sec. 38.) The park commissioner has charge of parks, places and squares. (Ib., Sec. 39.)

San Francisco.—The department of public works is under the management of three commissioners who constitute the board of public works. (Charter, Art. VI.) These members are appointed by the mayor for a term of three years, and each must belong to a different political party. The board has charge of all streets and the manner of their use, including permits of various kinds; of

sewers and drains; of street cleaning, sprinkling and lighting; of the construction of all public buildings, including school houses; of all public utilities owned by the city and of contracts for public improvements (Ib., Art. VI, Ch. I, Secs. 14-22); of street improvements including the system of special assessments (for special assessment procedure see Art. VI, Ch. II); and of harbors and wharves. In general it may be said of street improvements that the board of public works and the supervisors (council) have a veto on each other. The recommendations of the board may be negatived by the supervisors, but on the other hand such improvements cannot be made without the consent of the board. (Ib., Art. VI, Ch. II, Sec. 2.) Improvements to be paid for by the city may, however, be made without the consent of the board on the affirmative vote of 14 (of a total of 18) of the supervisors. Furthermore, in respect to special assessments an appeal may be taken, by any person directly interested in the work, from the board to the supervisors who may then reverse, amend, or set aside the action of the board. (Ib., Art. VI, Ch. II, Sec. 14.) The general ordinances affecting the superintendence and control of the streets are passed by the supervisors without reference to the board. (Ib., Art. VI, Ch. I, Sec. 9.)

When streets constructed by special assessments are once accepted by the board, they must thereafter be kept in repair by the city. (Ib., Art. VI, Ch. II, Sec. 23.) Street cleaning and sprinkling may be done either directly or by contract, or both. (Amdt. of 1906 to Art. VI, Ch. II, Sec. 29.)

The water supply is not under the control of the city.

3. DEPARTMENTS OF PUBLIC HEALTH AND SAFETY.

In most cities the departments here grouped under the head of public safety are entirely distinct in organization. In several, however, there is some sort of grouping designed to give administrative unity.

Baltimore has a department of public safety, comprising a board of five commissioners—commissioner of health, inspector of buildings, commissioner of street cleaning, and president of the board of police commissioners. The board at the head of the department, consisting of the single officers and the heads of the boards named, has advisory powers only. (Charter, Sec. 68.)

Cleveland, and other Ohio cities, have a department of public safety, which includes the police and fire departments. The board of public safety consists of either two or four directors appointed by the mayor for four years (not more than half of whom may be of the same political party), and it is vested with the appointment, regulation and government of the police and fire departments. (Ohio Laws for Municipalities, 1902, Secs. 146, 147.)

Denver has a department of fire, police and excise, under a fire and police board, composed of the commissioner of excise, who is

chairman, the commissioner of police, and the commissioner of fire, each appointed by the mayor for four years. The three commissioners must not belong to the same political party. Any member may be removed by the mayor after hearing. (Charter, Art. III, Sec. 64.)

In Philadelphia the department of public safety has charge of the fire and police forces, fire alarm telegraph, fire escapes, inspection of buildings and boilers, of markets and foods sold therein. It is under a single director, elected by the select and common councils for a term of four years. (P. L. 1885, p. 40; P. L. 1905, p. 392.)

In Grand Rapids there is a board of police and fire commissioners, consisting of five members, not more than three of whom may belong to one party. They have charge of the discipline and government of the two departments, and appoint the chief of police and fire marshal as well as subordinate officers. (Charter, Secs. 329, et seq.)

In Galveston one of the four city commissioners is designated by the board to serve as police and fire commissioner, and take charge of the two departments. (Charter, Ch. 37, Sec. 5.)

(1) Health departments.

Baltimore.—The commissioner of health supplants the old board of health. He is appointed by the mayor for four years, subject to confirmation by a majority of all the members elected to the second branch of the city council. During the first six months of his term the mayor has power to remove him at pleasure, but after six months he may be removed only for cause after charges have been preferred against him and notice given and trial had before the mayor. (Charter, Sec. 25.) His salary is \$3,500. He must be a physician of five years' experience and active practice at the time of his appointment. The commissioner of health may appoint two assistant commissioners, a medical examiner, an assistant medical examiner, clerks and subordinates, and fix their compensation, within his appropriation. The commissioner may appoint a number of sanitary inspectors, not exceeding fifteen, of whom two may be physicians and one, at least, must be an expert in drainage and ventilation. The commissioner must also appoint food and milk inspectors and analysts, whose duties are prescribed by ordinance. (Charter, Secs. 71-74.)

One of the assistant commissioners of health who is a legally authorized practicing physician, serves as quarantine hospital physician, superintending all the affairs of the quarantine hospital and the adjacent grounds, under the direction of the commissioner of health. His salary is \$3,000 and he is furnished a dwelling on the hospital grounds. The other assistant commissioner of health receives \$2,000. (Charter, Secs. 75, 76.)

The commissioner of health must annually appoint a vaccine physician for every ward of the city. Such physicians must be

residents of the wards for which they are appointed, and must visit each dwelling house in their respective wards and vaccinate every person who may be presented to him for that purpose, and also at his office during hours to be fixed by the commissioner. He must keep a record of all persons who refuse to be vaccinated as well as of those vaccinated or re-vaccinated, and report the same monthly under oath or affirmation to the commissioner. The vaccine physician must also act as sanitary inspector for his ward. He acts as health warden, and must have general supervision of the health of his ward, and report to the commissioner any nuisance which is or may become a source of disease, and in case of contagious disease he must proceed to arrest its progress. His salary is fixed by the Commissioner of health, but must not be more than \$900. (Charter, Secs. 77, 78.)

Boston.—The board of health is composed of three commissioners, and was established by ordinance. They are appointed, one each year, by the mayor, subject to confirmation by the board of aldermen. The term of office is three years and the salary is \$4,000, the chairman of the board receiving \$500 additional. (Boston Munic. Register, 1905, p. 55.) The board must appoint one or more health inspectors who must inspect milk, vinegar, provisions, and animals intended for slaughter, and perform such other duties as the board directs. (Mass. Acts and Resolves, 1895, Ch. 449, Sec. 19.) The powers and duties of the board of health are prescribed by ordinance. (Ib., 1854, Ch. 448, Sec. 40.)

Chicago.—The health department is established by ordinance under power conferred by statute. (Ill. R. S., Ch. 24, Sec. 62, Par. 76.) It is composed of the commissioner of health, the city physician, and assistants and employees as provided by ordinance. The commissioner of health is the head of the department. He must be a licensed physician and is appointed by the mayor with the consent of the council. (Rev. Munic. Code, 1905, Secs. 1023, 1024.) The commissioner has general supervision over the sanitary condition of the city. (Ib., 1026.)

The commissioner appoints, under civil service rules, an assistant commissioner of health, a secretary, a register of vital statistics, medical, meat and milk inspectors, disinfectors, bath and hospital attendants and sanitary policemen and sanitary police-women, and other employees. He also has power to remove, according to law, any of such officers, inspectors, clerks or employees. (Ib. 1027.)

The city physician is appointed by the mayor with the consent of the council. (Ib. 1042.) The duties and powers of the city physician are prescribed by ordinance.

Cleveland and Cincinnati.—The city council must establish a board of health, composed of five members, to be appointed by the

mayor and confirmed by the council. They serve without compensation. The city council may, by ordinance, authorize the board of public service to act as board of health. The mayor is president of the board by virtue of his office. If the city fails to establish a board of health, the state board of health may appoint a health officer for the city and fix his salary and term of office, and all necessary expenses incurred by him shall be paid by and be a valid claim against the city. (Ohio Law for Municipalities, 1902, Sec. 187, as amended, in Laws of Ohio, 1904, p. 460.)

The term of office of the members of the board shall be five years from the date of appointment and until their successors have been appointed and qualified. (Laws of Ohio, 1904, p. 643.)

A health officer is appointed by the board of health, but no member of the board may be appointed as health officer. His duties are defined by the board, and his salary is fixed by them. He serves during the pleasure of the board. (Laws of Ohio, 1904, p. 331.)

The board of health may appoint, with the consent of the council, district physicians, or a ward physician for each ward of the city, if they deem it necessary, to care for the sick poor in his ward, and also to care for persons quarantined in his ward or sent to the municipal pest-house from his ward when such parties are unable to pay for medical attendance. The board may also appoint sanitary police with the consent of the council. The board of health has exclusive control of its appointees, fixes their salaries and defines their duties, and all appointees serve during the pleasure of the board. (Laws of Ohio, 1904, p. 331.)

The powers of the board of health are defined by the charter and are the same for all cities in the state. (Law for Municipalities, 1902, Sec. 189.) Thus it has power to abate nuisances (Ohio Laws, 1902, p. 188), to take measures against dangerous or infectious diseases (Ib., 1902, pp. 427 et seq), including tuberculosis (Ib., 1904, p. 539), to appoint inspectors of schools and school buildings (Ib., 1902, p. 433), to appoint various inspectors, such as inspectors of dairies, slaughter-houses, shops, wagons, appliances, food and water supplies for animals, milk, butter, cheese and meat, etc., and to define their duties and fix their compensation. (Ib. p. 433, 434.)

Denver.—The health commissioner is appointed by the mayor for a term of four years. He must be a licensed physician with at least five years of practice in the city and county. (Charter, Sec. 106.)

The health commissioner appoints such assistants, within his appropriation, as may be required. (Ib. Sec. 106.) He must also appoint two licensed physicians, who serve without compensation, to act with him as a medical advisory board commission. (Ib. Sec. 108.)

The medical advisory commission annually appoints the physicians and surgeons of the visiting staff of the hospitals, etc. of the city and county, defines their duties and removes them for cause. The members of the visiting staff are eligible for reappointment and serve without compensation. (Ib., Sec. 108, 109.)

The health commissioner appoints the city and county physicians. He also appoints the resident physicians in the hospitals, who serve without compensation other than board and lodging. (Ib. Sec. 110.)

The health commissioner has control of the hospitals and the morgue, has sanitary supervision of all city and county institutions, of plumbing and drainage and sewerage of buildings, of markets, of removal and disposal of garbage, etc., and may enter into contracts for the removal and disposition of the same. (Ib. Sec. 106.)

Detroit.—The board of health consists of four members appointed by the governor with the consent of the senate, for four-year terms. They may be removed at any time by the governor. Two of them and no more must be graduates in medicine with at least five years' practice in Detroit. (Charter, Sec. 453.)

The health officer is appointed by the board of health and holds office during their pleasure. He must be a graduate in medicine of at least ten years' practice. His salary is not more than \$5,000. He appoints and dismisses all subordinates and employees. He must devote his whole time to the sanitary condition of the city. (Ib. Sec. 454.)

Except as otherwise provided by law or by ordinance, the board of health prescribes the duties and powers of the health officer, and of all inspectors, superintendents and other subordinates or employees, and may direct them in the performance of their duties. They may determine their number and fix their compensation, but the aggregate amount shall not exceed the amount fixed by the board of estimates. (Ib. Sec. 472.)

The board of health must enforce the general health laws of the state. (Ib. Sec. 475.) The board has power to suppress nuisances (Ib. Secs. 469, 471, 481), to take measures against infectious or contagious diseases (Ib. Secs. 459, 460, 461, 463, 464), to enforce the provisions relating to the sanitary condition of factories and workshops (Ib. Secs. 465, 466), and of schools and public buildings (Ib. Sec. 467), to inspect buildings (Ib. Sec. 479), to inspect abattoirs and slaughter houses (Ib. Sec. 496), and to inspect milk, meat, bread, drugs, etc. (Ib. Sec. 468).

New Orleans.—The council must establish a board of health, composed of five members, who must have been, at the time of appointment, residents and voters of the city for at least one year, and three of the said members must if practicable be duly registered and licensed physicians. The members of the board of health are

elected or appointed by the council and serve during the term of the council. The members of the board, excepting the chairman and sanitary officer, receive no pay. The council must provide for the maintenance and operation of the board. (Wolff, Rev. Laws of Louisiana, 1904, p. 1444, Secs. 5, 6.)

The board of health elects a chairman who must be a duly registered and licensed physician, who thereby becomes officer of the city, with the powers and duties usual and incident to such officers. His salary is fixed by ordinance. His term is the same as that of the other members of the board, as above. (Ib. Sec. 5.)

The board of health appoints a sanitary officer. His salary is fixed by ordinance. (Ib. Sec. 5.)

The board of health has power to define and abate nuisances, to regulate drainage and ventilation, to regulate injurious trades, to regulate the disposition of fecal matter and garbage, to regulate the erection of buildings, and the vacation and demolition of buildings, to provide for the registration of vital statistics, etc. (Ib. Sec. 7.)

The board of health must act under the supervision and advice of the state board of health, must pass no ordinance inconsistent with the powers and duties of the state board, and must be auxiliary to and act in harmony with the state board and make monthly reports to it. Its powers are limited to matters of strictly local sanitation. (Ib. Sec. 7.)

There are general state laws for quarantine, (Ib., pp. 1431-1446), food adulteration, (Ib. pp. 1468, 1469, 1472, 1471, 1473), to protect the health of operatives and employees in workshops and factories, (Ib., p. 1473), and to protect at fires, (Ib., pp. 1474, 1475).

New York.—The board of health is composed of the commissioner of health, the police commissioner, and the health officer of the port. The president of the board, and executive officer of the health department, is the commissioner of health, who is appointed by the mayor and removable by him. His salary is \$7,500. (Charter, Secs. 1167, 1194.)

The board of health is the head of the department of health. It has general sanitary control of the city and adjacent waters and the waters of the bay within the quarantine limits, but must not interfere with the commissioner of quarantine or the health officer of the port. (Ib. Secs. 1167, 1168, 1169.)

The board of health prescribes the duties of the sanitary superintendents (Ib. Sec. 1183), appoints and prescribes the duties of the sanitary inspectors (Ib. Sec. 1185), etc. The police department must co-operate with the board of health for the promotion of public health and safety (Ib. Sec. 1202), besides furnishing a special detail of sanitary police, (Ib. Sec. 1203). **Contagious diseases** (Ib. Secs. 1219-1222), vaccination (Ib., Secs. 1225, 1226), vital statistics (Ib. title 2), condemnation of infected or uninhabitable

houses (Ib. Sec. 1299, 1300), and lodging houses (Ib. Title 7), come under the jurisdiction of the board of health.

There is, moreover, a health department pension fund for disability resulting from performance of duty, or for long service. (Ib. Title 8.)

The tenement house department combines work formerly divided between the health and building departments. See "Building Inspection" below.

Philadelphia.—The bureau of health consists of three members nominated by the mayor and confirmed by the select council, for four years. One of the members is appointed by the mayor as president of the board who has supervision and control of all subordinate officers and employees of the board. His salary is fixed by ordinance. This bureau forms a part of the department of public health and charities. (Phila. Dig. Ch. 26, Sec. 2; P. L. 1899, p. 45.)

The director of the department of public health and charities is appointed by the mayor, with the consent of the select council, for a term of four years from the date of his appointment. (Ib. Ch. 25, Secs. 2, 5; P. L. 1903, pp. 113, 157.) Salary fixed by ordinance.

The director of public health and charities appoints, supervises and controls all the subordinate officers and employees of the department. (Phil. Dig. Ch. 25, Sec. 2; P. L. 1903, p. 157.)

The bureau of health has power to regulate nuisances. (Phil. Dig. Ch. 26, Secs. 8-21), house drainage (Ib. Secs. 22-26), milk inspection (Ib. Secs. 35-45), contagious diseases (Ib. Secs. 47-61, 81b-81t), maritime quarantine (Ib. Secs. 65-81), etc.

St. Louis.—The board of health consists of the mayor, the presiding officer of the council, a commissioner of police designated by the mayor, two regular practicing physicians, and the health commissioner. (Charter, Art. 12, Sec. 2.)

The health commissioner is appointed by the mayor with the approval of the council. His term is four years and until his successor is duly qualified. He is subject to removal by the mayor or council for cause. (Ib. Sec. 1.)

The health commissioner has general supervision over the public health of the city, and is empowered to make such rules and regulations, with the approval of the board of health, as will tend to preserve and promote the health of the city; and to appoint such employees, with the approval of the board, as may be necessary for the execution of his orders. He may declare and abate nuisances, but all condemnations must first be approved by the board of health. He must obey orders of the board, and report annually to the mayor. (Ib. Sec. 3.)

The health department, under the direction of the board of health and the health commissioner, has power over nuisances. (Ib. Secs. 4, 6, 7,) etc.

San Francisco.—The board of health consists of seven members, five of whom are appointed by the mayor and must have been for at least five years preceding their appointment regularly certified physicians of the city and county. The chief of police and the president of the board of public works are members ex-officio. The members of the board serve without compensation. The appointive members hold office for four years. (Charter, Art. 10, Secs. 1, 2.)

The board of health has charge of all matters pertaining to the preservation, promotion, and protection of the lives and health of the citizens. It may define and suppress nuisances. (Ib. Sec. 3.) The board has power to appoint officers, agents and employees, to fix their salaries, and to prescribe their duties. Appointments are made under civil service rules, and there is no removal without cause. (Ib. Sec. 5.)

Washington.—The commissioners of the District of Columbia appoint a physician as health officer. There is no board of health. The health officer is to execute and enforce, under the direction of the said commissioners, all laws and regulations relating to the public health and vital statistics. His salary is \$3,000. He makes an annual report to the commissioners and oftener if they require. (U. S. Stats. at Large, Vol. 20, Ch. 180, Secs. 8, 9, 11.)

The commissioners may appoint, upon recommendation of the health officer, a number of sanitary inspectors not exceeding six, of whom two may be physicians and one must be an expert in matters of drainage and ventilation. Their duties are prescribed by the commissioners, by whom also they may be removed. The salary of sanitary inspectors must not exceed \$2,000. They report in writing at least once in two weeks to the health officer. (Ib. Secs. 9, 11.)

Toronto.—The council appoints a board of health to consist of the mayor and six rate payers, the latter being appointed for three year terms, two members being appointed each year. If the council neglects or refuses to appoint members of the board of health, the Provincial board of health appoints them. (Rev. Stat. of Ontario, 1897. Ch. 248, Secs. 48, (3), 55).

The council may vote such amounts as the board of health deems necessary for its work. (Ib. Sec. 56.) The treasurer of the municipality must pay the amount of any order given by members of the board of health for services performed under their direction. (Ib. Sec. 57.)

The members of the board of health are called health officers and have the powers and duties thereof. (Ib. Sec. 58.)

The council appoints a medical health officer also, and fixes his salary. If an emergency exists and the council has failed to appoint a health officer the Provincial board of health requests it to do so. If this request is not complied with within five days, the lieutenant-governor upon recommendation of the Provincial board,

may appoint a health officer for the municipality. The health officer appointed by the council holds office during the pleasure of the council. (Ib. Secs. 31-33.) He may be removed for neglect of duty by a two-thirds vote of the council. (Ib. Sec. 34.) His duties are to assist and advise the board of health in matters relating to public health, and to enforce, under the direction of the board, laws and ordinances relating to the public health. He must present a written report annually. (Ib., Sec. 122, (1), Schedule B, 1.)

The council may also appoint sanitary inspectors and fix their salaries. They are to perform the duties prescribed and to assist the health officer. (Ib. Sec. 31, and Schedule B, 2.)

The board of health has jurisdiction over nuisances (Ib. Secs. 63-80, 113, 114), infectious diseases (Ib. Secs. 81-107), vaccination, in case the council neglects to appoint a vaccine physician (Ib. Ch. 249, Sec. 5), food and milk inspection (Ib., Ch. 248, Secs. 108, 109; Ch. 250, Secs. 2, 3, 4; also Chs. 251, 252, 253, 256, 257, etc., for points not especially within the jurisdiction of the board of health.)

(2) Police departments.

Baltimore.—The board of police commissioners for the city of Baltimore consists of three men who have been citizens of Baltimore for three years. They are elected by the joint meeting of the two houses of the general assembly of the state. The term of office of these commissioners is six years, and their salary is \$2,500 a year, payable quarterly. Each commissioner before entering office, takes an oath not to remove any officer, detective, etc., for political or any other reasons except unfitness. (Charter, Sec. 740.) Vacancies occurring in the board during recess of the general assembly are filled by the governor until the general assembly meets again. The general assembly has the power of permanently filling vacancies and of removing commissioners at any time. The governor may remove during recess of the legislature. (Ib. Sec. 741.)

All duties with regard to preserving the peace, enforcing laws, etc., usually devolving upon a police department, are placed upon this board of police commissioners. (Ib. Sec. 744.) The board employs the police force, equips it, makes necessary regulations, and has power of removal for violation of its regulations. The sheriff when called upon acts under direction of the board. The board can call out any existing military force in the city to help them in their duties, and such bodies must then obey the orders of the board implicitly. When necessary the board assumes control of all conservators of the peace, sheriffs, constables, etc. (Ib. Sec. 748.) Vacancies in the police force are filled, except in case of marshal or deputy marshal, by promotion from the next lower rank. (Ib. Sec. 749.) The books of the board are open at all times to the general assembly or its committee and to the mayor and city register. The board makes a full report on the number of force, expenditures, etc., at each session of the legislature. (Ib. Sec. 751.)

The board may retire any employee or member of force for life on pay not to exceed one-half his regular pay, if such person has served sixteen years or been disabled. The board appoints two women as matrons at four station houses and may appoint one or two for any other station house, one for day and one for night service. (Ib. Sec. 765.) Such matrons must have been recommended by at least twenty women in good standing. (Ib. Sec. 766.)

The board also appoints annually three physicians to act as physicians of the police department. They must be residents of the city and have practiced medicine in the city for three years. (Ib. Sec. 771.) Their duties are to examine all candidates for the force and to give members of the force all necessary medical aid. (Ib. Sec. 772.) Their term of office is determined by the board. (Ib. Sec. 773.)

There is also a board of police examiners, for the purpose of examining applicants for positions and promotions, appointed by the governor for two years at a salary of \$1,200 a year. (Md. L. 1902, P. 849.)

Boston.—Three citizens are chosen by the governor with the consent of his council, from the two leading political parties, to constitute a board of police. One member of the board is designated by the board as chairman. Their term of office is five years. Vacancies are filled and removals effected by the governor, with the consent of his council. This board of police has power to appoint and organize the police force of the city of Boston and to make all rules and regulations for its efficiency. (Mass. Acts and Resolves 1885, Ch. 323, Sec. 2.) The salary of the chairman of the board is \$4,500, that of the other members \$4,000, to be paid by the city. All necessary buildings are furnished by the city and all expenses of the force are paid by the city on requisition of the board. (Ib. Sec. 4.) The board makes a detailed report of its doings quarterly to the mayor, and annually to the governor. All records are open to inspection by the governor, mayor, or their representatives. (Ib. Sec. 7.)

Chicago.—The city council has the power to regulate the police of the city, to pass and enforce all necessary police ordinances, and to prescribe the duties and powers of a superintendent of police, policemen and watchmen. (Ill. Rev. Stat. 1905, Ch. 24, Secs. 66, 68.) Under this grant of power the police department has been created and organized by ordinance.

The department of police consists of a general superintendent of police, a secretary of the department, a private secretary to the superintendent, one inspector for each police division, one captain for each district, and such number of lieutenants, detective sergeants, patrol sergeants, desk sergeants, patrolmen and other employees as may be provided by ordinance. (Chicago Rev. Code. Sec. 1731.)

The superintendent is appointed by the mayor with the consent of the city council. (Ib. Sec. 1732.) He has full management and control of all matters relating to the department, its officers and members. He appoints all officers and members of the department. (Ib. Sec. 1734; see Civil Service.) He has also power of removal. (Ib. Sec. 1735.) He has custody of all property belonging to the department (Ib. Sec. 1736), and the duties usually belonging to the head of a police department devolve upon him. (Ib. Secs. 1737-1739.) He appoints a custodian of lost property. All money received for the sale of such property goes to the police pension board. (Ib. Sec. 1746.)

The superintendent hears and determines all cases, not under the jurisdiction of any trial board authorized by law, for violation of any rule or order of the department, and has power to punish for the same. (Ib. Sec. 1749.) When charges are preferred against any officer or patrolman the superintendent may suspend until the charges are disposed of. (Ib. Sec. 1750.)

Cleveland.—At the head of the police department of Cleveland is a board of public safety consisting of either two or four directors—the exact number to be determined by the council. These directors are appointed by the mayor with the consent of two-thirds of all members elected to the council. Their term is four years. Not more than half of the directors may belong to one political party. If appointments are not made or vacancies are not filled within thirty days of the required time, the governor of the state makes the appointments. The salaries of the directors are fixed by the council. (Ohio Law for Municipalities 1902. Sec. 146.)

All powers and duties connected with the appointment, regulation and government of the police department are vested in the mayor and the board of public safety. The mayor is the chief conservator of the peace. The directors of public safety make all contracts with reference to the department. (Ib. Sec. 147.) The executive head of the department is the chief of police, who has exclusive control of the stationing and transfer of members of the force. (Ib. Sec. 148.) The force consists of the chief and such inspectors, lieutenants, detectives, patrolmen, etc., as the city council may decide upon by ordinance. (Ib. Sec. 149.) The merit system is used in the case of all appointments, including the chief. The board of public safety makes a classified list of all offices on the force and keeps a list of all persons who have qualified for these offices. When a vacancy occurs, the board sends the names of the three highest persons eligible for the position, and the mayor chooses one of the three. (Ib. Secs. 152-167.) The chief of police has the exclusive power of suspending any subordinate, while the mayor after investigation has power to make the suspension final. The mayor alone has the right to suspend the chief of police, while

the board of public safety, after hearing, has power to make the suspension final. (Ib. Sec. 152.) Removal of a member of the board of public safety takes place by the mayor preferring charges against him and the council ratifying them and ordering the removal. (Ib. Sec. 156.)

The board makes regular reports to the mayor and to the council upon request. (Ib. Sec. 172.) Extensive regulations are made to prevent bribery for promotions and the levying of political assessments upon the force. (Ib. Secs. 173-179.)

Denver.—Denver has a fire and police board composed of a commissioner of excise, who is president of the board, a commissioner of police and a commissioner of fire, each appointed by the mayor for a term of four years, one of the members to be of a different political party from the other two. Any member may be removed by the mayor for cause, except political. (Charter, Sec. 64.) The police force is composed of the chief of police and such other subordinate officers, policemen and employees as are appointed by the board. The term of office of the chief of police is four years, subject to removal by the board. (Ib. Sec. 65.)

The board has full and exclusive authority to expend all funds set apart for the use of the departments it controls, and all disbursements are authorized by the board at a regular or special meeting. (Ib. Sec. 67.) The board with the approval of the mayor makes selections of sites for police stations, patrol boxes, etc., and after the ordinance has been passed authorizing them, contracts for and purchases sites, buildings, etc. (Ib. Sec. 68.)

Detroit.—The head of the police department of Detroit is a commissioner of police appointed by the mayor for a term of four years, at a salary of \$5,000 a year. The commissioner may be removed by the governor. (Charter, Secs. 659, 660.) He appoints all other members of the police force and may remove or suspend any of his appointees. He makes any rules and regulations for the government of the force which he desires and has complete control over the forces and property of the department. (Ib., Secs. 663-665.) The force is composed of a superintendent, a deputy superintendent, captains, patrolmen, detectives, a sealer of weights and measures, a harbor master, scavengers, etc. The commissioner also prescribes regulations for promotions, etc., and fixes salaries. (Ib. Sec. 666.) Any citizen of Detroit can prefer charges against a member of the force and the commissioner must then hold a trial. (Ib. Sec. 667.) The commissioner divides the city into precincts and stations members of the force at his pleasure. (Ib. Sec. 672.) The books and accounts of the commissioner are open at all times to the inspection of the mayor and controller. (Ib. Sec. 681.) The superintendent of police makes a quarterly statement to the common council. (Ib. Sec. 684.) Persons

entitled to pensions must petition the council, which has exclusive jurisdiction in the matter. (Charter, Sec. 705.)

Galveston.—The board of commissioners (council) of Galveston, consisting of the mayor and four commissioners elected by the people, is authorized by the charter to establish the police department, composed of a chief of police, an assistant chief of police, two sergeants and such number of patrolmen and policemen as they think necessary. One of this board of commissioners is selected by the board as police and fire commissioner. He recommends to the board persons for appointment in the department and the board votes upon the names submitted. The chief of police can suspend members of the department until their cases have been passed upon by the commissioner, who has exclusive right to hear such cases. The chief of police has the direction of the police force and must see that the duties of the force are duly performed. He receives \$1,500 a year. (Laws of Texas 1903, Ch. 37, Sec. 20.)

New Orleans.—The city council is authorized by the charter to "adequately provide for the maintenance of an effective police force and fire department." (Charter, Sec. 14, Par. 5.) A commissioner of police and public buildings is elected for a term of four years. (Charter, Secs. 22, 33.)

New York City.—At the head of the police department of New York City is a police commissioner, appointed by the mayor for a term of five years. He can be removed either by the mayor or the governor. His salary is \$7,500 a year. He appoints two deputy commissioners at a salary of \$4,000. One of them represents the police commissioner when he is unable to attend to his duties. The police commissioner may delegate to these deputies as much of his duties and powers as he sees fit, except his power of appointing and transferring. (Charter, Sec. 270.) The police commissioner has complete control over the government, administration, disposition and discipline of the police department. (Ib. Sec. 271.) He has power of appointment and removal of all members of the force. (Ib. Sec. 283.) All promotions are made in conformity with the civil service law. (Ib. Sec. 289.)

The police commissioner may increase the force by a number not exceeding 150 a year, providing the board of estimate and apportionment and the board of aldermen have already passed the necessary measures. (Ib. Sec. 289.) He maintains a bureau known as the central office bureau of detectives. (Ib. Sec. 290.) The commissioner is the chief executive of the force and is responsible for all duties devolving upon the department. With the consent of the commissioners of the sinking fund he may establish and furnish station houses, at least one in each precinct, and purchase all other property, stationary or movable, necessary to the department. (Ib. Sec. 320.)

A police pension fund is maintained consisting of fines upon the force, money realized upon lost property, excise moneys, etc., and of this money the commissioner is made trustee. He must give a bond of \$100,000 in his capacity as trustee. (Ib. Secs. 352, 353.) The circumstances under which pensions are awarded are enumerated, but the power to make the award is vested in the police commissioner. (Ib. Sec. 355.)

Philadelphia.—The department of public safety is under the charge of one director (salary \$10,000 a year), appointed by the mayor and removable by him. He has charge of the police, fire and health departments. (P. L. 1885, p. 40; 1905, p. 392; Phil. Dig. Ch. IV., Secs. 1, 2.) This director appoints and removes all officers and makes all rules and regulations with regard to the police force. (Dig. Ch. IV., Sec. 3; P. L. 1885, p. 42.) (See Civil Service.) Under him is a superintendent at a salary of \$4,600. (Dig. Ch. V., Sec. 1.) The director may suspend a member of the force but not dismiss without a hearing. (P. L. 1885, p. 42.)

St. Louis.—At the head of the police department of St. Louis is a board of police consisting of four commissioners and the mayor. The term of the commissioners is four years and their salary is \$1,000. They are appointed by the governor. The governor can remove any one of the commissioners at any time. Candidacy for a political office is equivalent to resignation. (Laws of Missouri, 1899, p. 51, Secs. 3, 4.) This board performs all the duties regarding the preservation of the public peace, etc., that usually fall upon the police department. (Ib. Sec. 5.) They appoint and employ a permanent force consisting of not less than 850 patrolmen, detectives, turnkeys, etc. The board alone has power to determine when special police are to be called out. The term of office of patrolmen, detectives, etc., is four years, but any of them may be removed after a hearing by the board. (Ib. Sec. 6.) The principal officer of the force is the chief of police, appointed by the board at a salary of \$5,000 a year. (Ib. Sec. 718.) All vacancies are filled from the next lowest grade. The board may make any regulations it wishes regarding appointments and promotions that do not conflict with the merit law of the state. (Ib. Sec. 9.) The board divides the city into districts. If the council does not appropriate enough money to enable the board to fulfill the duties devolving upon it, it is empowered to apply to the circuit courts for a writ of mandamus, and the case has precedence over all others. (Ib. Sec. 11.) The board may at any time in case of emergency call upon the sheriff or any other conservators of the peace to act under their sole control. (Ib. Sec. 12.) The board each year sends to the council an estimate of expenses for the next year. It alone has power to pass on and pay salaries for police purposes. (Ib. Sec. 14.) Its books are always open to the general assembly of the state and a report is made to the general assembly annually. (Ib. Sec. 17.)

San Francisco.—The police department is under the management of a board of police commissioners, appointed by the mayor. The commissioners receive a salary of \$1,200 a year. (Charter, Art. VIII., Ch. 2, Sec. 1.) Not more than two members may belong to the same political party. (Ib. Sec. 2.) The board of police commissioners has power to appoint and discharge all members of the department and to prescribe all rules and regulations. It also issues saloon permits. (Ib. Ch. 3.) The chief of police is appointed by the board and holds office for four years at a salary of \$4,000 a year. He is the executive head of the department. He details members of the force to the various parts of the city, but is subject in every way to the control of the board. (Ib. Ch. 4.)

The board of police commissioners are constituted trustees of the pension fund and have power to retire members of the force and to award pensions, reliefs, etc. (Ib. Ch. X., Sec. 112.)

Washington.—The commissioners of the District of Columbia have complete charge and have authority to employ and discharge any members of the force and to adopt any rules and regulations that they deem necessary. (U. S. Statutes at Large, Vol. 20, Ch. 180, Sec. 6.)

Great Britain.—In all cities of England, except London, the council appoints a "watch committee" composed of its own members, who act with the mayor as their head in the control of police affairs. (Munic. Corporation Act, 1882, Sec. 190.)

The watch committee has power to appoint and discharge all members of the police force and make all rules and regulations regarding it. Any two justices may suspend a policeman, (borough constable.) (Ib. Sec. 191.) The executive head of the force is a head constable, (chief of police). Half of the expense of maintaining the force is paid by the general government, but only on the report of its inspectors that the service is up to standard. (Shaw. Municipal Government in Great Britain, pp. 67, 68.)

Canada (Toronto).—A board of commissioners of police controls the police force in Toronto. It consists of the mayor, the judge of the county court, and the police magistrate. (Consolidated Munic. Act, Sec. 482.) The council may fix a remuneration for the judge of the county court if it wishes. No other member of the board receives a salary. (Ib. Sec. 3.) The board appoints and dismisses all members of the force at pleasure and makes all rules and regulations regarding the force. (Ib. Secs. 489, 490.) The police force consists of a chief constable and as many other constables, police, etc., as the council may determine, but the council must allow the board as many as it requires. (Ib. Sec. 488.) The council appoints a high bailiff and may, if it wishes, provide by ordinance that the offices of high bailiff and chief constable be held by the same person. (Ib. Sec. 487.) The pay of all members of the force is determined

by the board. (Ib. Sec. 492.) Besides the powers ordinarily vested in a police department the board of commissioners has the following powers: It regulates and licenses all second-hand and junk shops, all livery stables, cabs, etc., and the hours of labor of those engaged in the business connected therewith, (Ib., Sec. 484); regulates the sale of meat, (Ib. Sec. 481); regulates the assize of bread, (Ib. Sec. 583), etc.

(3) Fire departments.

Baltimore.—The board of fire commissioners which is the head of the first sub-department of public safety, consists of three persons appointed by the mayor and confirmed by the Second Branch of the city council. Under certain conditions they may also be removed by the mayor. Their term of office is four years. The board of fire commissioners has the control and supervision of the fire department. One of the three members of the board is designated by the mayor as the board's president. The salary of the members is \$1,000 annually. (Charter, Sec. 69. For method of appointment and removal of board, see Sec. 25.)

The board of fire commissioners may provide a pension roll (Ib. Art. 4, Sec. 70), and the mayor and city council are directed to appropriate annually a sum sufficient to pay pensions of members of the fire department. (Ib., Sec. 445.) The mayor and council are also authorized to appropriate annually \$1,000 for the use of a building for members of the veteran volunteer firemen's association of Baltimore. (Ib. Sec. 448.)

Boston.—The fire department of Boston is under the charge of one commissioner appointed by the mayor for a term of three years. He exercises all the powers and duties conferred by statute upon the board of fire commissioners, which is abolished. The fire commissioner appoints a chief engineer or engineers and other firemen. The chief engineer directs the work of the members of the fire department in case of fire. (Mass. Acts and Resolves, 1895, Ch. 449, Secs. 9-11.)

Chicago.—The fire department is organized entirely by ordinance. (Ill. R. S., Ch. 24, Sec. 62, (64).) The head of the fire department is a fire marshal, appointed by the mayor by and with the advice of the city council. (Rev. Code of Chicago, 1905, Ch. 23, Art. 1, Sec. 825.)

The fire marshal appoints all officers and members of the department. He may also remove them according to law. (Ib. Sec. 827.) The subordinate officers of the fire department must perform such duties as are prescribed by the fire marshal or the city ordinances. (Ib. Sec. 828.) The marshal has sole and absolute control and command over all persons connected with the fire department, and possesses full power over its organization, government and con-

trol, and to that end he may prescribe such rules and regulations as he may deem advisable. (Ib. Sec. 830.) He has the custody of fire apparatus, inquires into the causes of all fires, inspects apparatus and makes an annual report of fires that have occurred during the previous year. (Ib. Secs. 831-835.) He must also prepare and submit to the comptroller an annual estimate of the cost of maintaining the fire department during the current fiscal year. (Ib. Sec. 840.)

Besides the fire marshal, the fire department includes one first assistant fire marshal, a secretary of the fire department, a veterinary surgeon and such number of other officers as the council may provide. (Ib. Sec. 824.)

Cleveland (and Cincinnati).—The chief of the fire department is appointed, under civil service rules, by the directors of public safety. He is the executive head of the department under the direction of the mayor. He has exclusive control of the stationing and transferring of all firemen and other officers and employees of the department under general rules and regulations prescribed by the board of public safety. In case of riot, the mayor may appoint additional firemen and officers for temporary service. The fire department of each city is composed of a chief and such marshals and other officers as the council may prescribe. The department must be maintained upon the merit system. (Ohio Law for Municipalities, 1902, Sec. 151.)

The chief of the fire department has the exclusive right to suspend any officer or employee under his control for cause. The mayor must decide whether such suspension is just. The mayor may suspend the chief of the fire department for cause; the board of public safety must then decide the case. (Ib. Sec. 152.)

Denver.—There is a commissioner of fire, who is a member of the fire and police board, and is appointed by the mayor for a term of four years. The fire department is composed of a chief and such subordinate officers and members as the fire and police board may appoint. (Charter, Sec. 66.) The fire and police board has exclusive authority to expend all funds appropriated for its use. (Ib. Sec. 67.) The commissioner of fire receives an annual salary of \$2,500; the chief of the fire department \$3,000. (Ib. Sec. 153.)

Detroit.—A board of four commissioners is vested with all powers and duties connected with the government of the fire department of Detroit. (Charter, Sec. 403.) The commissioners hold their offices for four years and are appointed by the common council on the nomination of the mayor. (Ib. Sec. 404.) Any member of the board of commissioners may be removed by the council for cause. (Ib., Sec. 405.) The commissioners organize by electing one of their number president, and appointing a person as secretary. (Ib. Sec. 407.) They have control of all officers, men and property for the prevention and extinguishing of fires. (Ib. Sec. 408.) The

commissioners receive no compensation for their services. (Ib. Sec. 418.) They fix the salary of the chief of the department and other officers. (Ib. Sec. 415.)

The common council of Detroit must cause to be raised by tax the sums of money needed annually by the fire department. (Ib. Sec. 425.) The commissioners appoint a chief and assistants and other officers. (Ib. Sec. 415.) The fire marshal is appointed by the commissioners with the approval of the council. It is his duty to inspect buildings in course of construction, to examine into the origin of fires, and to inspect shops for the purpose of enforcing fire ordinances. (Ib. Sec. 428-434.)

New York.—The head of the New York fire department is a fire commissioner, appointed and removable by the mayor, and not holding his office for any specific term. The salary of the commissioner is \$7,500 a year. (Charter, Sec. 720. For mayor's power of removal, see Ib. Sec. 95.)

The fire commissioner performs all duties and exercises all powers for the government and management of the fire department of the city. (Charter, Sec. 724.) He has the power to organize the fire department into bureaus, one charged with the duty of preventing and extinguishing fires, another with the execution of laws relating to combustibles, another with the investigation of the cause of fires. (Ib. Sec. 727.) He selects heads of bureaus and as many officers and firemen as are necessary. They are at all times under his control. (Ib. Sec. 728.)

Philadelphia.—The fire department of Philadelphia, designated as the bureau of fire, is under the management of one chief engineer whose salary is \$3,600. The employees and officers of the fire department are under the control of the director of public safety. (P. L. 1885, p. 40; Phil. Dig. Ch. 4, Sec. 1; Ch. 6. Sec. 2.) All appointments to the fire department by the department of public safety, are subject to confirmation by the city council. (Phil. Dig. Ch. 6, Sec. 5.)

The chief engineer has the sole command, at fires, over all members of the fire department and others present. His duties are those usually prescribed by the chief. (Phil. Digest, Ch. 6, Sec. 9, Ch. 6, Sec. 9.)

Philadelphia has a fire marshal subject to the direction of the department of public safety. (P. L. 1903, p. 48; Digest, Ch. 7, Sec. 16.) It is the duty of the fire marshal and his assistants to investigate the origin of all fires occurring in the city and, if necessary, to report to the city attorney. (P. L. 1903, p. 48; Digest, Ch. 7, Sec. 17.) He may enter buildings to see whether the fire ordinances are being observed. (P. L. 1903, p. 49; Digest Ch. 7, Secs. 18, 19.)

St. Louis.—The fire department of St. Louis is under the control and supervision of a chief of fire department, appointed by the

mayor and confirmed by the council. The chief holds office for four years and may be removed by the mayor or council. (For method of removal see Charter, Art. 4, Secs. 7, 8.) The chief has charge of the property connected with his department, and appoints, subject to the approval of the mayor, all officers and employees provided by ordinance. (Charter, Art. 11, Sec. 1.) The chief of fire department has power, in cases of emergency, with the approval of the mayor, to purchase horses and mules necessary for the use of his department, and he must recommend to the commissioner of supplies the purchase of engines and other apparatus, as provided by ordinance. (Ib., Sec. 2.)

He may exercise police powers at fires (Ib., Sec. 3), and must make annual reports to the mayor and quarterly reports to the controller. (Charter, Art. 4, Sec. 47.)

San Francisco.—The fire department of San Francisco is under the management of a board of fire commissioners consisting of four members, appointed by the mayor, each receiving an annual salary of \$1,200. (Charter, Art. 9, Ch. 1, Sec. 1.) No more than two members of the board may belong to the same political party. The commissioners hold office for four years. (Ib., Sec. 2.) They elect one of their number president, who holds office for one year, and may appoint a secretary at an annual salary of \$2,400. (Ib., Sec. 4.)

The board must organize the department, establish fire companies, and prescribe the number and duties of the members of the department. It has control of all property and equipments of the department, and exercises full authority over all appropriations made for the department. (Ib., Sec. 5.) Members of the department can be dismissed only for cause, and after a trial before the commissioners. (Ib., Sec. 7.)

The board of fire commissioners appoints a chief engineer, who is the chief executive officer of the department. (Charter Art. 9, Ch. 3, Sec. 1.) On the written recommendation of the Underwriters' Fire Patrol of San Francisco, the board may appoint a fire marshal and assistant, whose salaries are to be paid by the Underwriters' Fire Patrol. (Ib., Ch. 5, Sec. 1.)

The fire marshal is charged with enforcement of all laws and ordinances relating to oils, combustibles and explosives. He must also investigate the cause of all fires. (Ib., Sec. 4.)

(4) Building Inspection.

Baltimore.—The inspector of buildings is appointed by the mayor, subject to confirmation by a majority of all the members elected to the second branch of the city council, for four years. After the first six months he may be removed only for cause after charges have been preferred against him and notice given and trial had before the mayor. (Charter, Sec. 25.) His salary is \$3,000. He must be an architect or builder of ten years' experience. He

has supervision of the construction of all buildings, and must see that the building laws are complied with. He must visit and inspect all theaters, hotels, public halls, churches, school houses and buildings used for public assemblages, and all manufactories employing twenty-five or more persons, to see that they have the proper means of exit in case of fire or panic, and direct the owners, trustees, or lessees to make such improvements as he may deem proper or necessary. (Charter, Secs. 79, 80.)

The inspector of buildings has power to appoint such assistants and subordinates, clerks and employees, as are prescribed by ordinance and to fix their compensation, not to exceed in the aggregate the amount allowed by ordinance.

Boston.—The building commissioner is the head of the building department which is the title of the former department for the inspection of buildings. (Mass. Acts and Res., 1895, Ch. 449, Sec. 24.) The building commissioner must be an architect, builder or civil engineer. He is appointed by the mayor and confirmed by the board of aldermen. He holds office for three years or until his successor is appointed and confirmed, but may be removed by the mayor for malfeasance, incapacity or neglect of duty. (Mass. Acts and Resolves, 1895, Ch. 419, Sec. 2.) His salary is \$5,000, fixed by ordinance. (Ib., Sec. 1.) The building commissioner appoints, with the approval of the mayor, building inspectors, etc. These officers may be removed by the building commissioner with the approval of the mayor. (Ib., Sec. 3.)

The powers and duties of the building department are fixed by statute. It has power over the inspection of buildings in course of erection (Ib., Sec. 7); examination of buildings reported dangerous or damaged by fire or accident (Ib., Sec. 8); of attending fires (Ib., Sec. 9); computation of strength of materials, (Ib. Sec. 10); inspection of plans before granting permits, (Ib., Sec. 11), etc.

There is a board for hearing appeals from the building commissioner, composed of three members, with three year terms subject to removal by the mayor. One member of this board is appointed by the mayor, with the approval of the board of aldermen. The second member must be an architect, and is appointed, with the approval of the mayor, by the Boston chapter of the American Society of Architects. The third member must be a master builder and is appointed, with the approval of the mayor, by the Master Builder's Association. Each member of the board receives from the city \$5 for each hour of actual service, but not exceeding \$1,000 per annum. The city also pays all reasonable expenses of this board. (Mass. Acts and Resolves 1892, Ch. 419, Sec. 12.)

Separate from the building department is the commission on the height of buildings, composed of three members appointed by the mayor, and receiving such compensation as he determines. 

duties are to give notice and public hearings and establish the boundaries of the two districts into which the city is divided. District A includes those parts of the city in which all or the greater part of the buildings are used for business or commercial purposes. In this district no building is to be erected to a height of over 125 feet above the grade of the street. These restrictions do not apply to grain or coal elevators or sugar refineries in district A, nor to steeples, domes, towers, cupolas erected for strictly ornamental purposes, of fire-proof material on buildings of prescribed height or less. District B includes those parts of the city in which all or the greater part of the buildings are used for residential purposes or for other purposes not business or commercial. In district B no building may be erected to a height of more than 80 feet above the grade of the street. The boundaries so established are to continue for a period of fifteen years from the date of recording in the county registry of deeds. The members of the commission are to serve until such districts have been established. (Mass. Acts and Resolves 1904, Ch. 333. See also *Ib.* 1905, Ch. 383.)

Chicago.—The charter gives the council power to provide by ordinance for building inspection. (Ill. R. S. Ch. 24, Secs. 62, (61), 73.) The department of buildings is established by ordinance. It is composed of a commissioner of buildings, a deputy commissioner, an assistant deputy commissioner, a civil engineer, a secretary to the commissioner, a chief building inspector, and inspectors of elevators, standpipes and fire-escapes, and inspectors of buildings, and other assistants and employees. (Chicago Rev. Code, 1905, Sec. 199.)

The head of the department is the commissioner of buildings, appointed by the mayor with the consent of the council. He must be an experienced architect, civil engineer, builder or competent building mechanic of ten years' standing, and must devote his whole time to the duties of the office. (*Ib.*, Sec. 200.) He holds office during the term of the mayor appointing him and until his successor is appointed and qualified. (*Ib.*, Sec. 1510.) His salary is fixed by the council in the annual appropriation bill. (*Ib.*, Sec. 1516.)

The other members of the department are in the classified civil service. (Ill. R. S. Ch. 24, Sec. 448.) They are appointed, according to law, by the building commissioner, and in like manner removed. The commissioner, when making a requisition upon the civil service commission for persons to fill the offices of the deputy commissioner, assistant deputy commissioner, or chief building inspector, notifies them that the person certified must be a competent civil engineer, architect, or builder. (Chicago Rev. Code, Secs. 218, 220, 222.)

Cleveland (and Cincinnati).

See Council, Powers of.

Denver.—The building inspector is appointed by the mayor for a term of four years. He must be an architect or practical builder of at least five years' experience. His salary is fixed by ordinance. (Charter, Sec. 63.) It is his duty to inspect all buildings in process of construction or repair, and to inspect all other buildings to see that the building ordinances are complied with. He keeps a record of such inspections, and in case of violation of ordinances reports to the mayor or attorney. The inspectors of electric wiring and plumbing report to the building inspector. (Ib.)

Other powers and duties are fixed by ordinance. (Ib.)

Detroit.—The board of building inspectors consists of three members who must be competent mechanics or architects, resident electors of Detroit, appointed for a term of three years by the council upon nomination of the mayor. They shall devote their entire time to the duties of their office and shall not be engaged or interested directly or indirectly in the building business. They may be removed for cause by a two-thirds vote of the council. The board of building inspectors makes a detailed monthly report and a summarized annual report to the board of aldermen. Their salaries are fixed by ordinance, but must not exceed \$1,200.

No fees are to be charged to the owner or persons controlling any building or structure inspected. (Charter, Secs. 850, 859, 860.) In case of dissatisfaction with the decision of the board of inspectors, the owner or owners may appeal to a board of three competent persons consisting of the president of the board of inspectors, the president of the board of public works and a third person to be named by the appellant. The decision of this board of appeal is final. (Ib., Secs. 858, 856.)

New Orleans.—The charter authorizes the council to provide by ordinance for the regulation of the safety, height and thickness of the walls and structures. (Charter, Sec. 15, (9).)

New York.—New York has a bureau of buildings for each borough. The president of the borough appoints a superintendent of buildings for the borough, who must be a competent architect or builder of at least ten years' experience. The superintendent of buildings is removable by the president of the borough. The salary of the superintendent varies in the different boroughs from \$6,000 and \$2,500. In the boroughs of Queens and Richmond the president of the borough may act as superintendent of buildings in case he does not appoint a superintendent. (Charter, Sec. 405).

The superintendent of buildings in any borough has charge of the administration of rules and regulations, and ordinances and laws relating to the construction, alteration or removal of build-

ings or other structures erected or to be erected within his borough. The superintendent appoints and at pleasure removes subordinate officers, chief inspectors of buildings, each to be a competent architect, engineer or builder of at least ten years' practice; inspectors of buildings, to be architects, engineers, masons, carpenters, plumbers or iron workers, who shall have served at least five years as such; and other subordinates. No officer or employee in the building bureau is allowed to be connected with any business connected with building trades or professions while holding office in the bureau. (Ib., Sec. 406.)

The building code of the city of New York of 1902 continues in force for all the boroughs except as amended by ordinance. (Ib., Sec. 407.) The president of each borough has power to establish rules and regulations for the building bureau of his borough and to change them as he deems it necessary and desirable. (Ib., Sec. 409.)

An appeal may be taken from the superintendent of buildings where the amount involved by his ruling exceeds \$1,000, to a board of examiners, consisting of one member of the New York chapter of the American Institute of Architects, one member of the New York Board of Fire Underwriters, two members of the Mechanics and Traders' Exchange of said city, one of whom must be a master mason, and one a master carpenter, one member of the Society of Architectural Iron Manufacturers of the city, and one member of the Real Estate Owners and Builders' Association of the city, who must be an architect or builder, all of whom are appointed by their respective associations, and so certified annually to the mayor of the city of New York and the chief of the fire department. The mayor designates annually the presiding officer of the board of examiners. They must each take the usual oath of office and no member may pass on any question in which he is personally interested. At least five votes are necessary to grant a petition. The board meets once a week on notice from any superintendent of buildings. The members receive an attendance fee of \$10 for each meeting they attend. The clerk of the board is appointed and removable by the mayor of the city, and receives a salary of \$1,500. The decision of the board of examiners is final. (Ib., Sec. 411.)

Tenement House Department.—The tenement house commissioner is head of the tenement house department. He is appointed by the mayor, removable by him, and holds office for 6 years and until his successor is appointed. (Charter, Secs. 1326, 110, 95). His salary is \$7,500. (Ib., Sec. 1326).

The commissioner has power to appoint and to remove at pleasure not more than 2 deputies at a salary of \$4,000 each, and to define their duties. (Ib., Sec. 1327). Within the limits of his appropriation the commissioner has power to appoint and remove, sub-

ject to civil service regulations, subordinate officers, assistants and employees. (Ib., Sec. 1329).

In the tenement house department there are (1) a new building bureau, (2) an inspection bureau, (3) a bureau of records. In the new building bureau there must be at least 3 plan examiners and 16 inspectors of light and ventilation. In the inspection bureau there must be at least 190 inspectors, including such persons as may be detailed by the police commissioners for service in the tenement house department. The commissioner appoints a chief inspector and deputy chief inspector over the bureau of inspection. He has supervision and control of the officers and employees, and makes the regulations for the bureaus in the department. (Ib., Secs. 1328, 1329. For duties of bureaus see Ib., Sec. 1330).

The tenement house department has all rights and powers of the health department with respect to the sanitary inspection of tenement houses. (Ib., Sec. 1340). The rights, powers, and duties of the fire and police departments with respect to the prevention of incumbrance or obstruction of fire escapes on tenement houses are conferred upon the tenement house department. (Ib., Sec. 1341). All rights, powers, and duties of the department of buildings (bureaus of buildings in the borough) and the department of health with respect to the light and ventilation of tenement houses, and with respect to the equipment of completed tenement houses with fire escapes, are conferred upon the tenement house department. (Ib., Sec. 1341).

The tenement house department has charge of the approval of plans and specifications for light and ventilation, (Ib., Sec. 1342); of inspection of tenement houses in course of construction, (Ib., Sec. 1343); of inspection of completed tenement houses, (Ib., Sec. 1344a); of issuing certificates to the owners of tenement houses hereafter erected or altered, without which said tenement houses may not be occupied. (Ib., Sec. 1344).

Philadelphia.—A bureau of building inspection attached to the department of public safety, and under the supervision and control of the director of public safety is prescribed by statute. (Phil. Dig., Ch. 8, Sec. 1). The chief of the bureau is appointed by the director of public safety, and must be a practical builder, civil engineer, bricklayer or carpenter. The other offices of the bureau—inspectors, etc.—are created by ordinance, but the officers and employees are appointed by the director of public safety. All the inspectors must be practical builders, civil engineers, carpenters, or bricklayers, but must not all be of the same occupation. The salaries of all the aforesaid officers are fixed by the councils.

The chief of the bureau of building inspection has management and control of the bureau under the direction of the director of public safety. (Ib., Sec. 3). The inspectors of buildings, under the direc-

tion of the chief of the bureau, must examine all buildings in course of erection and make written reports to the chief. They must also examine all buildings damaged by fire or accident and make a record of dangerous walls or buildings. (Ib., Sec. 4). A permit from the bureau of building inspection is necessary for the erection, enlargement, alteration, repair, or removal of any building or part thereof, etc. (Ib., Sec. 5).

Further powers and duties of the bureau of building inspection are also prescribed by statute. (Ib., Secs. 6-93).

St. Louis.—Power is granted by the charter to provide by ordinance for the examination of buildings regarding their condition for health, cleanliness and safety; for the removal of buildings, walls, etc., that are or may become dangerous, or require owners to remove them or put them in safe and secure condition; for the safe construction, inspection, and repairs of all private or public buildings; for the regulation, restraining or prohibition of the erection of wooden buildings within the prescribed limits, etc. (Charter, Art. 3, Sec. 26 (12).)

The charter assigns the duty of inspecting buildings in course of construction to the chief of the fire department (Charter, Ch. 11, Sec. 5); but this duty has been transferred to the commissioner of public buildings. (Ib., note; Mun. Code, Sec. 24).

San Francisco.—The board of public works is given charge, superintendence, and control, under such ordinances as the supervisors may adopt, of the supervision of any and all building construction in the city and county. (Charter, Art. 6, Ch. 1, Sec. 9 (5).)

Toronto.—The council is authorized by the charter to regulate by ordinance the construction, repairing, altering or improving of buildings, etc., and to provide for inspection. (Rev. Stat., Ontario, 1897, Ch. 223, Sec. 541.)

4. CHARITIES AND CORRECTIONS.

Baltimore. *General Organization.*—The department of charities and correction of Baltimore consists of the supervisors of city charities and the visitors to the city jail. The head of the Department is a board of charities and corrections composed of the President and one other of the supervisors of City Charities, the President and one other of the visitors to the city jail, and the mayor ex officio. This board is for consultation and advice only. (Charter, Sec. 103.)

Poor Relief.—The supervisors of city charities are a board of nine persons, appointed by the mayor and removable by him under certain conditions. Their term of office is six years. The duty of the Supervisors is to determine what sick, insane or desti-

tute persons are proper charges of the city and to provide for the proper care of such persons. They fix the compensation of employes and subordinates. (Ib., Sec. 113.)

Jails.—The visitors of the city jail are a board of nine persons appointed by the mayor and under certain conditions removable by him. They serve without pay. (Charter, Sec. 118.)

The visitors to the city jail have control of all reformatory, criminal and penal institutions belonging to the city. (Ib.)

The visitors must appoint a warden of the city jail. (Ibid, Sec. 126.)

Boston. Poor Relief.—The overseers of the poor in the city of Boston are a board of twelve persons appointed by the mayor and confirmed by the council. Four of the overseers are appointed annually to serve a term of three years. (Boston Munic. Register, 1905, p. 68. See also Conference of Charities and Correction, 1898, p. 123, and Mass. Acts and Resolves, 1864, Ch. 128.)

The pauper institution department is under the charge of a board of seven trustees, at least two of whom must be women. They are appointed by the mayor for a term of five years without confirmation of the council. They serve without compensation. (Mass. Acts and Resolves, 1897, Ch. 395, Sec. 1, 2.) The trustees for the pauper institutions department have charge and control of the Boston Almshouse for women and aged couples at Charlestown, and purchase all fuel and other supplies. (Boston Munic. Register, 1905, p. 71.) Boston has a soldier's relief department under the charge of a commissioner appointed by the mayor. (Ib., 1905, p. 79.)

Hospitals.—The trustees of the city hospital in Boston were incorporated by Ch. 174 of the Acts of 1880, and Ch. 91 of the Acts of 1893, as the Boston City Hospital, and are authorized to receive and hold real and personal estate to an amount not exceeding \$1,000,000. (Boston Munic. Register, 1905, p. 59.) The trustees are seven in number, appointed by the Mayor and confirmed by the council. Their term of office is five years. They may be removed by two-thirds vote of the council. They receive no compensation. (Mass. Acts and Resolves, 1880, Ch. 174, Sec. 3.) They have general care and control of the hospital and may appoint a superintendent and assistants and fix their compensation. (Ib., Secs. 5, 6.) The city council may regulate by ordinances not inconsistent with the statute, the duties and authority of the board. (Ib., Sec. 7.)

The insane hospital trustees have the general care and control of the Boston lunatic hospital and all other hospitals of Boston for the treatment of the insane. (Mass. Acts and Resolves 1897, Ch. 451.)

Jails.—A penal institutions commissioner is appointed by the mayor without confirmation of the council. His term of office is three years and his salary is \$5,000. He has charge and control of Deer Island and the house of correction there. (Mass. Acts and Resolves 1897, Ch. 395, Sec. 5. Also see Munic. Register, 1905, p. 37, 72.)

The children's institution department of Boston is under the charge of a board of seven trustees, at least two of them women, appointed by the mayor without confirmation by the council. They serve for five years without compensation. (Mass. Acts and Res., 1897, Ch. 395, Sec. 1, 2.)

The trustees have control of the house for the employment and reformation of juvenile offenders. They also have charge of dependent children placed in country homes and the general supervision of defective children for whose care the city pays. (Munic. Register, 1905, p. 47.)

Chicago. Charities.—Charities are a county, not a city function in Chicago. The city has, however, an isolation hospital, under the commissioner of health. (Chicago Revised Code, 1905, Sec. 1034.)

Jails, Etc.—The board of inspectors of the house of correction consists of the mayor and three persons appointed by him with the consent of the council. The members of the board serve three years. (Ill. Rev. St., Ch. 67, Sec. 2.) The inspectors serve without compensation. (Ib., Sec. 4.)

The superintendent of the house of correction carries out the instructions of the inspectors. He is appointed by the mayor with the consent of the board of inspectors, holds office for four years, but may be removed by the inspectors at any time. (Ib., Sec. 7.)

Miscellaneous.—There are three free employment offices in Chicago. The governor, with the advice of the senate appoints a superintendent, assistant superintendent and a clerk for each of these offices, upon the recommendation of the State Board of Commissioners of Labor. The superintendent receives an annual salary of \$1,500, the assistant \$1,200, the clerk \$1,000. All serve for two years. (Ill. Rev. St., Ch. 48, Secs. 53, 54.)

Cleveland.—The administrative machinery for charities and corrections is not prescribed in the statutes.

It is provided that property or funds for hospital purposes, of which a municipal corporation becomes owner or trustee, shall be managed in accordance with the terms of the gift. But when these terms require the investment of the funds to be made upon the approval of an advisory committee appointed by the court, then such property or funds shall be administered by a board of hospital trustees. This board consists of four electors of the city appointed by the sinking fund trustees of the corporation

to serve four years without compensation. (Ohio Law for Municipalities, 1902, Sec. 220.)

Denver. *General Organization.*—A commission of charity and correction consisting of three members appointed by the mayor for a term of two years and serving without compensation has charge of all charitable work done by the city and county. (Charter, Sec. 113, 114.)

Poor Relief.—The commission of charity and correction has charge of the city and county farm and appoints the superintendent with the approval of the mayor. (Ib., Sec. 114, 115.)

Hospitals.—The commission may recommend to the mayor any change in the management of the city and county hospitals deemed advisable. (Ib., Sec. 118.)

Jails, Etc.—A detention school, not connected with any jail, must be established. It must be placed in charge of a superintendent appointed by the juvenile court with the approval of the commission. (Ib., Sec. 120.)

Miscellaneous.—The commission of charity and correction may establish and have charge of a municipal lodging house. (Ib., Sec. 114.)

Detroit. *Poor Relief.*—The common council has power to establish, organize and maintain an almshouse and a hospital, to appoint all necessary officers therefor and to prescribe their powers and duties. (Charter, Sec. 177.) A board of four poor commissioners, appointed by the mayor and confirmed by the council, has control of all the poor applying for aid in Detroit and appoints necessary employees. The board has power to purchase clothing, provisions, etc., for the poor. The members of the board, serve for four years without compensation. (Ib., Sec. 501.)

Hospitals.—The council has authority to appoint all necessary officers for taking charge of the hospital, to prescribe their powers and duties, and provide for their removal from office and the filling of vacancies. (Ib., Sec. 177.)

Jails, Etc.—The management of the Detroit house of correction is under the control of a board of four inspectors appointed by the city council upon the nomination of the mayor. The members serve for four years. (Charter, Sec. 713.) The board may adopt rules and appoint a superintendent and other officers. (Ib., Sec. 714.)

New Orleans. *Poor Relief.*—The Charter does not confer upon New Orleans the power to establish poor houses or afford relief to the poor. However, the city employs a commissioner who manages shakespear's almshouse for old people, which is owned and

maintained by the city. (Conference of Charities and Corrections, Proceedings, 1898, p. 132.)

Hospitals.—The charity hospital of New Orleans has eight administrators appointed by the governor, who, together with the governor of Louisiana, compose the board of administrators. (Wolff's R. S. of La. 1904, Vol. I, p. 151, 152, Sec. 388.) The board of administrators has full power to manage the hospital. (Ib., Sec. 389.)

Jails, Etc.—The city council has power to establish jails, houses of refuge, reformation and correction, and to make regulation for their government. (Charter, Art. III, Sec. 15, (14).)

New York. General Organization.—A commissioner of public charities, appointed by the mayor and removable by him at pleasure, is at the head of the department of public charities. His salary is \$7,500. (Charter, Sec. 658.) The commissioner of correction, appointed by the mayor and removable by him at pleasure, is at the head of the department of correction. His salary is also \$7,500 annually. (Ib., Sec. 694.)

Poor Relief.—The commissioner of public charities has charge of hospitals, asylums, almshouses and other institutions of New York City devoted to the care of the feeble-minded, sick, infirm and destitute, (with certain exceptions.) (Ib., Sec. 660.)

Hospitals.—See Poor Relief above.

The board of health, consisting of the commissioner of health, the police commissioner, and the health officer of the port, all appointed by the mayor, is the head of the department of health. (Ib., Sec. 1167.) The board is authorized to erect, maintain and furnish in certain specified places, buildings and hospitals for the care and treatment of persons sick with contagious diseases, and it has exclusive charge and control of such buildings and hospitals. (Ib., Sec. 1170.)

The management and control of a few specified hospitals of New York City are vested in a board of trustees, which consists of seven residents of New York City, together with the commissioner of public charities, ex officio. Appointments to the board are made by the mayor for a term of seven years, (Ib., Sec. 692.)

Jails, Etc.—The commissioner of correction has charge of all institutions of New York City for the care and custody of criminals and misdemeanants, (with certain exceptions.) (Ib., Sec. 695.)

Philadelphia.—The management of almshouses, hospitals and similar institutions of Philadelphia is under the department of public

health and charities, which is in charge of a director and an assistant director appointed by him. (P. L. 1885, p. 48; Phil. Dig. Ch. 25, Sec. 1.) The director of the department of public health and charities is appointed by the mayor for a term of four years. (P. L. 1903, p. 157; Phil. Dig. Ch. 25, Sec. 2.)

The bureau of correction is under the department of public safety. (Phil. Dig. Ch. 11, Sec. 1.) The department of public safety makes rules and regulations for the government of the house of correction. (Phil. Dig. Ch. 11, Sec. 9.)

St. Louis. General Organization.—A board of five commissioners of charitable institutions appointed by the mayor for a term of four years has general visitorial supervision over all penal and charitable institutions supported wholly or in part by the city. They have power to remove any appointed officer or employee of such institutions. (Charter, Art. 4, Secs. 2, 49.) The commissioners recommend to the Assembly ordinances for the welfare of persons under their supervision. They serve without compensation. (Ib., Sec. 50.) The direct control of the institutions is separate.

Hospitals.—The health commissioner of St. Louis has charge of all city hospitals, and with the advice of the board of health makes all necessary rules for their government. (Charter, Art. 14, Sec. 4.)

The city hospital, the female hospital, the insane and quarantine each has a superintendent who performs his duties under the general supervision of the health commissioner. The superintendents are appointed by the mayor with the approval of the board of health, but all other employees are appointed by the health commissioner and approved by the board of health. (Charter, Art. 12, Sec. 5.)

Jails, Etc.—The mayor appoints, with the council's approval, a Superintendent of Workhouse, who holds office for four years. (Charter, Art. 4, Sec. 2.)

The mayor appoints, with the council's approval, a superintendent of the House of Refuge, who holds office for four years. (Charter, Art. 4, Sec. 2, 9.)

San Francisco.—The management and control of the city and county hospitals, almshouses, ambulance service, municipal hospitals and receiving hospitals are under a board of health consisting of seven members, five of them appointed by the mayor, the other two being the chief of police and the president of the board of public works, ex officio. (Charter, Art. 10, Sec. 1, 3.) The members of the board serve without compensation for four years. (Ib.)

5. EDUCATION AND RECREATION.

(1) School Administration.

Baltimore.—The department of education is in charge of a board of 9 persons appointed by the mayor, with the approval of the second branch of the city council, for a term of 6 years, 2 being appointed each year. The board appoints a superintendent of schools, and as many assistant superintendents as it sees fit. The superintendent and the assistant superintendents constitute a board of superintendents of public instruction, which is required to hold regular meetings, keep a record of its proceedings, and report to the board of education. Their duties are the educational administration and supervision of the schools, including the examination and recommendation of teachers for the elementary schools. The board of education also appoints an indefinite number of unsalaried visitors whose duty is to inspect the schools of their respective neighborhoods, and make suggestions to the board. (Charter, Secs. 99-102.)

The board appoints also a supervisor of school buildings, who has charge of the physical condition of the school buildings, and such other duties as the board may direct. (Ib., Sec. 100.)

The board of education, like any other department of the city government, submits an annual estimate to the board of estimates, which may amend it in its discretion. The city council may then reduce it, but may not increase it. School taxes are a part of the general city tax rate, levied by the council. Within the annual appropriation, the board of education has power to fix salaries of teachers and employes. (Ib., Sec. 99.) The construction of school buildings, like other public buildings, is under the direction of the inspector of buildings; but he is required to regard the instructions of the board of education, and all plans must be approved by them. (Ib., Sec. 99.)

Teachers in elementary schools are appointed by the board, upon recommendation of the superintendent, after examination; those in high schools and technical schools are appointed by the board directly. (Ib., Sec. 100.)

Boston.—The Boston school committee consists of 5 members elected at large for a 3-year term; 2, 2, and 1 retiring in successive years. (Mass. Acts and Resolves, 1905, Ch. 349.) Women may vote for members of the school committee. (Mass. R. L., 1902, Ch. 11, Sec. 13.) The school committee elects a superintendent and a board of supervisors, consisting of six members; it also appoints all principals and teachers, as well as janitors and engineers, and fixes all salaries. (Acts and Resolves, 1875, Ch. 241, Sec. 5.) It has general power over school management. (Ib.) The school committee has independent power of appropriation, to the amount of \$3.40 per \$1,000 of assessed valuation in the city, in addition to their miscellaneous income. (Ib., 1903, Ch. 170.) This tax is outside the city tax limit

of \$10.50. The appropriations must receive a two-thirds vote of the board, and the approval of the mayor; if they are vetoed by the mayor, they must receive a three-fourths vote to repass. (Ib., 1898, Ch. 400.) The amounts appropriated are certified to the board of assessors, and by them placed in the tax levy for the year. (Ib.)

There is also a school house department, under a board of 3 members appointed by the mayor without confirmation, for 3-year terms, 1 retiring each year. The board has complete control over the purchase of school sites and the erection of buildings, subject to the recommendation of the superintendent, and under appropriations made by the school committee. The city council, by a two-thirds vote of each house, may issue bonds for the purpose. (Ib., 1901, Ch. 473.)

Buffalo.—There is no board of education in Buffalo. There is a committee of the Board of Aldermen on schools, which, like other committees, considers and reports on ordinances concerning its field, but has no administrative functions. There is a superintendent of education, elected by the people for a 4-year term, who is the head of the department of public instruction. (Charter of Buffalo (1891) Sec. 330.) The city council has complete power to determine educational policy; the superintendent's duties are administrative only. He employs teachers, from lists certified to him by the board of school examiners, described below; but the council fixes the salary, and the terms and conditions of employment. The council has power to establish the courses of study and systems of education; if none be established by the council, the superintendent directs them himself. In practice, the council leaves the regulation of the curriculum to the superintendent. The superintendent appoints janitors. (Ib., Sec. 330, as amended by laws of New York, 1905, Ch. 109.)

The finances of the schools are completely in the hands of the city council. School expenses are paid out of the general fund, upon appropriation by the council. For school sites and buildings, the law authorizes an annual appropriation, not exceeding \$250,000. (Ib., Sec. 329, as amended by laws of N. Y., 1899, Ch. 586.)

There is a board of school examiners, consisting of 5 members, one appointed each year by the mayor for a 5-year term. The duties of the board are the examination and certification of teachers, and the visitation and inspection of schools. (Ib., Sec. 334, as amended by laws of N. Y., 1901, Ch. 127.) They make an annual report to the council upon the condition of the schools, including suggestions as to improvements in the system of examination and appointment of teachers. (Ib., Sec. 246.)

Chicago.—There is a school board of 21 members, 7 being appointed each year by the mayor for a 3-year term. (Ill., R. S. Ch. 122, Sec. 173.) The board has power to equip the schools, to hire buildings or rooms, to employ teachers, and fix salaries, to prescribe text books and the course of study, and generally to manage the schools. With

the approval of the council, it may erect or purchase buildings and sites, and issue bonds for those purposes, on the credit of the city. (Ib., Secs. 177-179.) All school property is vested in the city in trust for the use of schools. School funds are held by the city treasurer as a special fund, and paid out by order of the board of education on warrants signed by the mayor and comptroller. (Ib., Sec. 182.) It is the duty of the board "to take the entire superintendence of schools." No superintendent of schools is provided by statute, but the board of education does, as a matter of fact, appoint one. The board has power to divide the city into school districts (Ib., Sec. 178 (7)) and it is required to visit each school at least once a month (Ib., Sec. 179 (3)). The board has created districts and appoints an assistant superintendent for each. Superintendents, like teachers, are elected annually.

The school board certifies to the council the amount of money required for the coming year, and the law requires that the council "shall thereupon cause the said amount to be levied and collected." The tax for school purposes is limited to 5 per cent of the assessed valuation, of which $2\frac{1}{2}$ per cent is for educational and $2\frac{1}{2}$ per cent for school building purposes. (Ib., Ch. 122, Sec. 202.)

Cleveland.—The Ohio school code of 1904 provides for a board of education of not less than 2 nor more than 7 members elected at large, and not less than 2 nor more than 30 elected by districts; the exact number to be fixed by the previously existing school board. (Ohio R. S. Sec. 3897, as amended by Laws of 1904, p. 338.) In Cleveland the number is fixed at 7, of whom 5 are elected at large, and 2 by districts. They serve for 4 years, either 3 or 4 retiring every 2 years. (Ib., p. 339.) Nominations for the board of education are made by petition. (Ib., Sec. 3897 a; Laws of 1904, p. 340.)

The board of education elects a superintendent for a term not exceeding 5 years, who has charge of educational administration and appoints teachers, with the approval of the board; and a director of schools who has charge of the physical and business administration for a term of two years. (Ib., Sec. 4017, 4017 a; Laws of 1904, pp. 361-363.)

The board of education has independent power of taxation; but the tax levy in any year must not be more than 12 mills, nor less than 6 mills, except by popular vote. (Ib., Sec. 3959; Laws of 1906, p. 127.) The tax levy is submitted to the tax commission, who may amend it. The city treasurer is treasurer of the school board. (Ib., Sec. 4042; Laws of 1904, p. 377.)

Denver.—The school board of Denver is organized in accordance with the general law of the state governing school districts and district boards; the old School District No. 1 was extended to include the whole city by the Denver amendment to the constitution (Constitution, Art. XX, Sec. 7). The board consists of 5 members, elected by the people for 5-year term, one retiring each year. (Ann. Stats. of

Col., Sec. 4005.) The school board has power to maintain and regulate schools, both in their educational and physical aspects. (Ib., Sec. 4015.) The superintendent of schools for Denver is elected by the people every 4 years. (Charter, Secs. 45, 167, 168.) As county superintendent he examines teachers, visits and supervises the schools, examines school accounts, and reports to the state superintendent. (Ann. Stats. Col., Sec. 3984.) He performs such other duties as may be prescribed by ordinance. (Charter, Sec. 45.) The tax rate for school purposes is determined by the board, and certified by it to the council, and by the council to the assessor, by whom it is levied. (Ann. Stats. Col., Sec. 4032; Charter, Sec. 213.)

Detroit.—The school board consists of 17 school inspectors, one elected from each ward of the city for 4-year terms, 8 and 9 being elected at successive biennial elections. (Charter, Sec. 593.) The mayor, controller, treasurer, and recorder are ex-officio school inspectors, having a right to a seat but not a vote. (Ib., Sec. 596.) The board elects a superintendent of schools for a 3-year term; it may provide that he be ex-officio secretary of the board. (Ib., Sec. 598.) The board transmits its annual estimate to the city council, divided into two funds: for maintenance, and for buildings; the council and the board of estimates may amend, but the maintenance fund, as approved, must not be less than \$5 for each child of school age. The city treasurer is treasurer of the board of education. The board may submit any measure or question relating to schools which is beyond their power to determine, to a popular vote; especially the matter of free text books. Any action of the board involving expenditures or the creation of debts must be submitted to the mayor; if he vetoes it, the board may repass by a two-thirds vote.

New Orleans.—The school board for the parish of Orleans consists of 20 members, 8 of whom are appointed by the governor, with the approval of the state board of education, and 12 elected by the city council of New Orleans, for a 4-year term. Five retire each year. The mayor, treasurer and comptroller of New Orleans are members ex-officio without vote. The board examines and appoints teachers, and has complete management of the schools. The school taxes are levied by the council; and must be sufficient to meet the expenses of schools as shown by the statement of actual attendance and cost per pupil made by the board. In addition to the school tax proper, the school receives one-half of the surplus left from the city debt tax of one per cent, which is usually the principal revenue. There is also a share of the state school tax, and a poll tax in the parish. The board appoints a superintendent of schools. (Wolff's R. Laws La., p. 625.)

New York.—The board of education consists of 46 members, appointed by the mayor for 5-year terms, 22 from the borough of Manhattan, 4 from the Bronx, 14 from Brooklyn, 4 from Queens and 2

from Richmond. The members from each borough are renewed in approximately equal groups, so that about one-fifth are appointed annually. (Charter, Sec. 1061.) The board appoints an executive committee of 15, who have power to act, subject to the approval of the board, upon many administrative matters. (Ib., Sec. 1063.) The board appoints a city superintendent of schools, a supervisor of lectures, a superintendent of school buildings, and a superintendent of school supplies, all for 6-year terms. (Ib., Sec. 1067.) The board also appoints 6 associate superintendents, who, with the superintendent, constitute a board of superintendents, who supervise the course of study, issue syllabuses, recommend teachers for appointment from lists furnished them from the board of examiners, and generally exercise powers of educational administration; upon such matters the board of education acts only on recommendation of the board of superintendents. (Ib., Secs. 1079-1086.) The board of education appoints, on the nomination of the board of superintendents, 26 district superintendents, 23 of whom are assigned by the superintendent to particular districts, and the other 3 to other duties. The city is divided into 46 districts, each of which has a district school board consisting of 5 residents of the district appointed by the president of the borough in which the district is, one member of the board of education, assigned by the president of the board, and the district superintendent, assigned for duty in that district by the city superintendent. The duties of the district board are inspection of schools in the district, recommendation on any subject of interest to the school administration of their districts, and the trial of charges against teachers and principals, subject to review by the board of education; they may also transfer teachers, subject to the approval of the board of education. (Ib., Secs. 1087, 1088.)

There is a board of examiners, consisting of the city superintendent and 4 other persons appointed, on his nomination, by the board of education, for a term of 6 years, retiring in succession; the board issues all licenses and keeps an eligible list from which all appointments to teaching positions must be made. (Ib., Sec. 1089.)

The board of education submits annually an estimate for the whole school system, and the board of estimate and apportionment is required to appropriate an amount equivalent to at least 4 mills on the dollar annually.

Philadelphia.—The board of school controllers consists of 42 members, one of whom is appointed each year for a 3-year term, from each of 14 wards of the city, (so that there is one member of the board for each of the 42 wards), by the judges of the court of common pleas for the city and county of Philadelphia. (P. L. 1867, p. 779; Phil. Dig. Ch. 24, Sec. 6.) The board elects a city superintendent for a term of one year. (See Rollins: Municipal School Administration, p. 24.) There are local school boards, consisting of 12 members each, in each of the 42 wards. The local school directors are elected by

popular vote, 4 being elected each year for 3-year terms; each voter may vote for only 3. The local boards determine the grades of schools, elect teachers and assign them, and appoint janitors, subject in each case to the approval of the central board. (P. L. 1891, p. 223; Phil. Dig. Ch. 24, Sec. 53; 7 Sm. L. (1818) p. 55; Phil. Dig. Ch. 24, Sec. 61.)

The board of controllers submits its estimate annually to the councils, and the councils fix the rate for other city expenses (P. L. 1854, p. 42; Phil. Dig. Ch. 24, Sec. 44). There is also a \$1 capitation tax for schools provided for by general law. (P. L. 1897, p. 305.)

St. Louis.—The school board nominates 12 members elected at large, for 6-year terms, 4 retiring every 2 years. The board is a body corporate, and has full power to hold property and to maintain and regulate schools. The actual administration is in the hands of four officers elected by the board: the superintendent of instruction, the commissioner of school buildings, the secretary and treasurer, and the auditor. The terms of these officers is fixed by law at 4 years, subject to removal by a two-thirds vote of the board; and although they act under the general direction of the board, the law gives them specific powers and duties with which the board cannot interfere. The superintendent of instruction recommends all appointments, promotions and transfers of teachers, and the board can act on such matters only upon his recommendation. Teachers are appointed from an eligible list, made up of graduates of the normal school, and are appointed annually. Janitors are appointed by the commissioner of school buildings, from an eligible list. The secretary and auditor have power to check expenditures in violation of law.

The board of education fixes the school tax rate and levies it directly. School taxes are assessed and collected by city officers. (Laws of Missouri, 1897, p. 220.)

San Francisco.—The board of education consists of 4 members appointed by the mayor, who serve for 4 years, one retiring each year. The salary is \$3,000. (Charter, Art. 7, Ch. 1.) The board has power to establish and alter schools, to employ teachers, fix salaries, and to dismiss (but only upon charges); it also purchases all supplies and makes contracts. (Ib., Ch. III.) It makes requisition upon the board of public works for new school houses; and the board of public works prepares plans and constructs the buildings under instructions from the board of education. (Ib., Ch. VI.)

The superintendent of schools is elected by the people for a term of 4 years. (Ib., Art. 9, Ch. 2, Sec. 1.) He is a member of the board of education, but has no vote. The superintendent appoints deputy superintendents in proportion to school attendance. Besides having the usual duties of supervision and inspection, the superintendent and the deputies constitute a city board of examination, which examines and issues certificates to teachers. (Ib., Art. 7, Ch. 4.)

TABLE III SCHOOL ADMINISTRATION

	Who appoints Board of Education	Number of Members	By Districts or Whole City?	How Renewed?	Term	Superin- tendent How appointed	Term of Superin- tendent	Who Levies School Taxes?
Baltimore . .	Mayor	9	Whole City	3 appointed every two years	6 years	Board	No fixed term	Council
Boston . . .	Elected	5	Whole City	2, 2, and 1 retire in successive years	3 years	Board	2 years	Board
Buffalo . . .	No Board					Elected	4 years	Council
Chicago . . .	Mayor	21	City	7 appointed every year	3 years	Board	Not definitely fixed. In practice 1 year	Council; amt. fixed by Board
Cleveland . .	Elected	7	5 at large 2 by districts	3 or 2 every two years	4 years	Board	5 years	Board, with approval by Tax Com'n
Denver . . .	Elected	5	City	1 every two years	5 years	Elected	4 years	Board
Detroit . . .	Elected	17	Wards	8 or 9 every two years	4 years	Board	3 years	Council
New Orleans .	Governor & City Council ¹²	20	City	5 appointed each year	4 years	Board	4 years	Council
New York . .	Mayor	46	Boroughs	About one-fifth annually	5 years	Board	6 years	Board of Esti- mate and Apportionment
Philadelphia .	Judges of Court of Com'n Pleas	42	Wards	One-third annually	3 years	Board	1 year	Councils
St. Louis . .	Elected	12	At large	One-third every two years	6 years	Board	4 years	Board
San Francisco .	Elected	4	At large	1 each year	4 years	Elected	4 years	Council

The board of education submits an annual estimate, specifying the amount required for supplies, for school sites, for school buildings, for school maintenance, and for salaries; the aggregate must not exceed \$32.50 for each child actually in attendance during the last year. The supervisors fix the tax rate for school purposes, in their discretion, not exceeding that amount. The amount of salaries not exceeding \$28 for each pupil, must be segregated from the other school funds by the auditor, and reserved for the payment of salaries. (Ib., Ch. III, Sec. 9.)

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On the general subject of school administration in cities of the United States, see Rollins, *School Administration in Municipal Government*, Vol. XI, No. 1, of *Columbia University Contributions to Philosophy, Psychology and Education*, 1902.

(2) Libraries, Art Galleries and Museums.

Boston. *Public Library.*—The trustees of the public library are 5 in number, appointed by the mayor for a term of 5 years, one retiring each year. (Mass. Acts and Resolves, 1878, Ch. 14; Ib., 1885, Ch. 266.) The trustees are a corporation and have power to hold real and personal estate to an amount not to exceed one million dollars. The trustees have general care and control over the library and may appoint necessary assistants and fix their compensation. (Ib., 1878, Ch. 114.) The library is maintained out of an annual appropriation voted out the general funds of the city by the city council. (Boston Mun. Register, 1905, p. 64.)

Chicago. *Public Libraries.*—There are 9 directors of the public library appointed by the mayor for 3-year terms (3 retiring each year) with no compensation. They make and adopt such by-laws, rules and regulations for the government of the library as may be expedient, and they have exclusive control of the expenditure of all moneys collected for the library fund, which is kept up by an annual tax of one mill on a dollar, levied and collected in the same manner as the general tax of the city. The council may in its discretion issue bonds for the erection of a library building or the purchase of a site. The directors have the power of appointing and removing employees. (Ill. R. S. Ch. 81, Secs. 1-57.)

Museums and Art Galleries.—The corporate authorities of the city having control of public parks may erect and maintain museums of natural history, arts or natural sciences within the park, or they may permit directors so to act, but under the supervision of the park authorities. These museums must be free to all on certain days, and certain prices of admission are prescribed on other days. The money so secured must be used for the maintenance of the museum. The board of park commissioners having control of any park within which there is such a museum, may after vote of majority of voters of park

district, levy annually a tax of $\frac{1}{2}$ mill on each dollar of taxable property within the district, in addition to all other taxes authorized by law. (Ill. R. S. Ch. 105, Sec. 119, 119a.)

Cleveland (and Cincinnati). *Public Libraries.*—The custody control, and administration, together with the erection and equipment of free public libraries established by municipal corporations is vested in 6 trustees, not more than 3 of whom may be of the same political party, and not more than 3 of whom may be women. The trustees are appointed by the mayor to serve for 4 years without compensation, 3 retiring every 2 years. The trustees employ librarians and assistants, fix their compensation, adopt by-laws and regulations for the protection and government of the libraries and all property belonging thereto.

The city council is authorized to levy a tax to compensate a private company for maintaining a free public library. (Ohio Law for Municipalities, Sec. 218, as amended by Laws of Ohio, 1904, p. 34.)

Art Museum.—The city council is authorized to levy a tax to compensate a private company for maintaining a free art gallery. (Laws of Ohio, 1906, p. 146.)

Denver. *Public Library.*—The library commission consists of 8 members chosen by the mayor to serve 8 years (2 retiring every alternate year) without compensation. There must always be 2 women on the commission. The commission has exclusive control of the library and all money appropriated or acquired for that purpose, power to provide for the acquisition by purchase, construction or lease, of grounds and buildings, the administration of gifts and trusts and the power to do "all things necessary and expedient in connection with library purposes." The council must annually appropriate not less than \$30,000 for the maintenance of the library. (Charter, 1904, Secs. 125-130.)

Detroit. *Public Library.*—The board of education of the city of Denver has control of the public library. As such controlling body, it elects (in its discretion) a board of six commissioners, who are not members of the board of education. These commissioners hold office for 6 years (one retiring every year). The president of the board of education is an ex-officio member of the commission.

The commission has power to take and hold property, to make contracts and to make necessary rules and regulations governing the library. It may appoint and remove employes and fix their compensation. The commission may institute proceedings to take private property for the use of the library. A special library tax of one-fifth of one mill on the dollar is levied annually with other city taxes for the benefit of the library fund. The city council may also borrow money and issue bonds to an amount not exceeding one million dollars, after approval by the people at election, and credit the amount so raised to

the library fund. For the purpose of establishing a sinking fund to cover such indebtedness, the council must raise by taxation in each year, a sum equal to $2\frac{1}{2}$ per cent of the bonds. All bills and accounts after being audited and approved by the commission are transmitted to the controller, and by him to the council with his approval or disapproval, and when approved by the council the money is paid on affidavit of the person rendering the account. The treasurer of the board of education is treasurer of the commission. (Charter, 1904, Secs. 602, 920-940.)

New York. *Public Library.*—The New York public library, Astor, Lenox and Tilden foundations, is a corporation formed under authority of an act of 1896, Ch. 209, by the consolidation of the 3 separate foundations. It is governed by a board of 21 trustees, perpetuated by co-optation. The city of New York furnishes the site and the building.

The Metropolitan Museum of Art is also a private corporation, receiving a site and a building from the city.

Philadelphia. *Library.*—The councils are authorized to make appropriations for a free library, on condition that the city be represented in its management to the satisfaction of the councils; and to levy a tax for the purpose not exceeding 2 mills. (P. L. 1895, p. 170; Phil. Dig. Ch. 53, Secs. 5, 6.) Under this authority, the councils have provided for a library board consisting of the mayor of Philadelphia ex-officio, the presidents of both branches of city councils ex-officio, one citizen to be elected annually by each branch of the city councils, and 18 others, who are named. All vacancies in the board of trustees (except ex-officio members and citizens elected by the city councils) are filled alternately by the board of trustees and by the mayor, subject to confirmation in the latter case by select council. (Phil. Dig. Ch. 53, Secs. 2, 3.)

Museums.—The board of trustees of the Philadelphia Museum is created wholly by ordinance, and is composed of the mayor, president of the board of education, superintendent of public schools, state superintendent of public instruction, governor of Pennsylvania, and the chief of the forestry department, all ex-officio; a representative of the board of public education and of the park commission (elected by each body) with one citizen elected annually by each branch of city councils; and nine citizens of Philadelphia. All vacancies in the board of trustees are filled by the mayor, subject to confirmation by select council, except ex-officio members, representatives of boards of public education and park commission, and the citizens elected by each branch of councils. The board of trustees elects its own officers and adopts by-laws for its government. (Phil. Dig. Ch. 66, Sec. 1.)

St. Louis. *Public Library.*—St. Louis has directors appointed by the mayor for a 3-year term (3 retiring every year) and they serve without compensation. They make and adopt necessary by-laws and regulations and have exclusive control of all moneys collected to the credit of the library fund and the construction of any library building and the supervision of all places set aside for library purposes. They have power to appoint and remove assistants. The library fund, over which they have control, is kept up by an annual tax of not more than two-fifths of a mill on the dollar, which is levied and collected in the same manner as other general taxes. A library building fund may be created, provided it be petitioned for by 100 tax paying voters and submitted to the voters; if two-thirds of the qualified voters of the city voting at such election vote in favor of the fund, an annual tax not to exceed $1\frac{1}{2}$ mills on the dollar is levied for not more than 5 years. (R. S. Mo. 1899, Secs. 6466-6486.)

San Francisco. *Public Library.*—The board of trustees is made up of 12 members who serve without compensation. The board is self-perpetuating. The mayor is one of the 12 trustees. The board has power to make all necessary rules and regulations; to appoint and remove assistants and to fix their salaries; to administer trusts created for the library and to draw money from the library fund for any liability or authorized expenditure. For the purpose of maintaining the library and reading room the supervisors may levy an annual tax on all property in the city, of not less than $1\frac{1}{2}$ cents nor more than $2\frac{1}{2}$ cents upon each \$1,000 assessed valuation. (Charter, Secs. 1-7.)

The park commissioners (see Park Commissioners) have the management and control of the Museum and Art Gallery situated in Golden Gate Park. (Charter, Ch. XIV, Sec. 6.)

(4) Art commissions.

A number of cities have art commissions whose duties are usually the supervision of monuments and other public works of art, and plans for public buildings. Their functions fall partly under the head of education and recreation, and partly, through their power of advice or veto upon proposed plans, under the head of public works.

Baltimore.—The art commission of Baltimore consists of the mayor and 7 other members nominated by the Md. Historical Society, Johns Hopkins University, Peabody Institute, Md. Institution for the Promotion of Mechanic Arts, Architectural Club of Baltimore, Board of Park Commissioners, Charcoal Club, and appointed by the mayor subject to confirmation by the second branch of the council. Members of the commission hold office for 4 years. (Charter, Sec. 201.) No work of art of any kind may be erected, nor change made in an existing work of art, in any public place in Baltimore, unless the design and site of proposed change has been first approved by the commission in a report to the city council. (Ib., Sec.

202.) The commission, at the mayor's request, gives its advice as to the suitability of the design of any public building, bridge, etc., and reports thereon to the city council. (Ib., Sec. 203.)

Boston.—There is also an art department of Boston, in charge of 5 commissioners appointed for 5 years by the mayor from lists submitted by the trustees of the Museum of Fine Arts, the trustees of the Boston Public Library, the trustees of the Massachusetts Institute of Technology, the Boston Art Club, and the Boston Society of Architects. (Mass. Acts and Resolves, 1898, Ch. 410.) No work of art can become the property of the city without the approval of the art department, which may also be requested by the mayor or the council to pass upon the design of any municipal building. (Boston Munic. Register, 1905, p. 93.)

Chicago.—The art commission of Chicago consists of the mayor, the president of the Art Institute, the presidents of the 3 park boards who are ex-officio members of the commission, and three other persons appointed by the mayor, one a painter, one a sculptor and one an architect. The three appointed by the mayor serve for 3 years (one retiring every year) without compensation. Plans for the purchase, removal, re-location or alteration of any works of art are submitted to the commission for approval before action is taken by the city. (Ill. R. S. Ch. 24, Secs. 633-640.)

Denver.—Denver has an art commission consisting of 6 persons, 2 professional artists, one of whom must be a sculptor, 2 appointed from names submitted by the "Artists' Club" or the "Municipal Art League," and one professional architect. They serve for 6 years (2 retiring every 2 years) without compensation. The mayor is an ex-officio member of the commission. No work of art may become the property of the city or subject to its control unless approved by the commission, nor may such work of art be removed, re-located or altered without their approval. (Charter, Secs. 121-124.)

New York.—The art commission is composed of 4 officers ex-officio, namely, the mayor, and the presidents of the Metropolitan Museum of Art, of the New York Library and of the Brooklyn Institute of Arts and Sciences, respectively; also 6 other members, one painter, one sculptor, one architect and 3 other persons not members of any profession of fine arts. The commissioners are appointed by the mayor from lists prescribed by the Fine Arts Federation, for a term of 3 years (2 retiring every year) and serve without compensation. All works of art, before they become the property of the city, must be approved by the commission. They also approve or disapprove of the removal or re-location of works of art. (Charter, Secs. 633-639.)

San Francisco.—The park commissioners (see Park Commissioners *infra*) must approve of all works of art before they become the property of the city. (Charter, Ch. XIV, Sec. 10.)

(5) Parks and Playgrounds.

Baltimore.—The mayor of Baltimore appoints 5 men to serve without pay for 4 years as a board of park commissioners. (Charter, Sec. 90.) This board has charge and control of all public parks, squares, springs and monuments in the city of Baltimore. (Ib., Sec. 91.) It has power to make all rules and regulations for the government and preservation of order within the parks, squares, etc. It may, in order to carry out these regulations, levy fines not to exceed \$100. Fines thus collected are appropriated to the use of the board. (Ib., Sec. 92.) It regulates the speed of vehicles within one mile of the parks, etc., and within them, and levies fines for violations. (Ib., Sec. 93.) The members of the board have within the parks the power of conservators of the peace. (Ib., Sec. 94.) The police department, on request of the board, must detail police to serve in the parks. (Ib., Sec. 95.) The board has the power to employ and compensate whatever employes it deems necessary. It may spend the funds at its discretion, but it transmits its annual estimates, like any other department, to the board of estimates and to the council, who determine the appropriation and raise the money required. (Ib., Sec. 97.)

Boston.—The mayor, with approval of the council, appoints 3 commissioners to serve for 3 years as a board of park commissioners. No person can be a member of this board who is a member of the council. Two-thirds of both houses can remove any commissioner. (Mass. Acts and Resolves, 1875, Ch. 185, Sec. 1.) The council determines the salary of the commissioners. (Ib., Sec. 2.) They can purchase property and create parks and improve, govern and regulate such parks. They may impose fines not exceeding \$20. They employ engineers, surveyors, etc., as well as a park police force, and fix the compensation of such officers and employes. No expenditure of money, however, can be made until sufficient appropriation has been made by the council. (Ib., Sec. 3.) The board may determine damages caused by the laying out of parks, but an appeal lies to the courts. (Ib., Sec. 5.) The fee of all lands in the hands of the board is vested in the city, and the city pays all damages awarded. (Ib., Sec. 6.) Any real estate which is especially benefited by the laying out of parks may be assessed by the board to an amount not exceeding one-half of the benefits. (Ib., Sec. 7.) The board makes an annual report to the council. (Ib., Sec. 15.)

Chicago.—The parks in Chicago are under 3 entirely distinct boards, none of which have any connection with the city corporation proper.

The South Park commissioners are 5 persons appointed by the judges of the circuit court of Cook county for a term of 5 years. They receive no salary, except the president, who may, by vote of the board, receive a salary of not exceeding \$3,000. They are corporate authorities of the towns of South Chicago, Hyde Park and Lake, for park purposes. The South Park commissioners certify directly to the county clerk the amount of money to be raised in those towns by taxation for park purposes. (Acts of Feb. 24th, and April 16th, 1869.) The maximum tax limit (granted by various acts) is now (1906) 4 mills on the dollar (including a half mill for museums) besides a sufficient amount to pay interest on bonds and retire one-tewentieth of each bond issue annually.

The West Park commissioners are a board of 7 persons appointed by the governor of Illinois for a term of 7 years. The president may be voted a salary of not more than \$4,000; the others serve without salary. They have been given by various acts a taxing power not exceeding 13 mills, at the last computation. They certify their taxes to the county treasurer and city clerk, as corporate authorities for the town of West Chicago, and by them the rate is certified to the county clerk to be collected. (Act of Feb. 27, 1869.)

The Lincoln Park Board consists of 5 members appointed by the governor for a term of 5 years. They have no definitely fixed limit of taxation. They certify to the county treasurer and city clerk, acting as corporate authorities for the towns of North Chicago and Lake View, the amount of money needed for the coming year. (Act of Feb. 8, 1869; Ill. R. S. Ch. 105, Secs. 57, 58.)

The 3 park boards have complete power over the laying out, improving, maintaining and regulating of parks in their respective territories.

There is also a small Parks Commission, established by ordinance, consisting of 9 aldermen and 6 other citizens appointed by the council. Under its control is a bureau of public playgrounds and bathing beaches, which has charge of the municipal playgrounds and bathing beaches. The chief administrative officer is the director of athletics and superintendent of public playgrounds and bathing beaches, appointed by the mayor. (Rev. Code of Chicago, 1905, Secs. 1566-1569.)

Cleveland.—Parks in Cleveland are under the control of the department of public service, governed by a board of directors of public service, which must consist of 3 or 5 members. (Ohio Law for Munic., 1902, Sec. 141.) The board has power to appoint such superintendents, inspectors, engineers and other employes as it sees fit. (Ib., Sec. 145.)

Denver.—The mayor appoints a park commission of 5 members, to serve for 5 years. They receive no salary, but may be repaid for actual expenses. The city is divided into 4 park districts and one commissioner is appointed from each district. He must have been a resident of the city for 2 years. The president of the board is chosen at

large. Commissioners are not allowed to hold any other public office. (Charter, Secs. 92, 323.) The committee appoints a superintendent of parks, who must be a practical landscape gardener. Under the direction of the commission, he has active charge and control of all parks and parkways of the city and county, and performs such other duties as may be prescribed by the commission, and has such assistants as may be authorized by the commission with the approval of the mayor. (Ib., Sec. 95.) The commission with the approval of the mayor has full and exclusive power to expend all moneys appropriated for park purposes. (Ib., Sec. 97.) It makes a full report to the council annually. (Ib., Sec. 98.) The commission has exclusive management and control of all parks and parkways, with exclusive power to lay out, regulate and improve same, and to prohibit heavy traffic therein, and to prevent the using of licenses to vend goods within 300 feet of a park entrance. The city council must by ordinances provide for the enforcement of these rules and orders. (Ib., Sec. 99.)

The commission may establish a building line or lines on boulevards or streets fronting on parks beyond which no building can be erected. (Ib., Sec. 100.) The council must annually assess upon each dollar of taxable property at least one and one-third mills for park purposes. (Ib., Sec. 105.) The commission has the right to condemn property for park purposes. (Ib., Sec. 325.) Parks bought are paid for in park bonds of the city or county, of date and form prescribed by the commission and at a rate of interest fixed by the board but not exceeding 6 per cent. In certain cases the board has the power with the consent of the mayor to issue bonds itself. (Ib., Sec. 327.)

Detroit.—The mayor of Detroit appoints a commissioner of parks and boulevards to serve 4 years. (Charter, Sec. 541). He may be removed by a two-thirds vote of the council. (Ib., Sec. 544). The commissioner has full control and management over all existing parks and boulevards and all hereafter to be established. He has full charge over their maintenance, improvement, etc. (Ib., Sec. 546). He appoints a secretary, who holds office during his pleasure and who employs and discharges superintendents, engineers, and all other subordinates and fixes their compensation. (Ib., Sec. 545). The commissioner makes all necessary rules and regulations for the government of the parks and for their use. The city council is directed to pass ordinances enforcing these regulations and the commissioner of police is required to preserve order by detaining police. (Ib., Sec. 547). The commissioner of parks is made a member of the board of estimates. He makes a detailed estimate of all money needed in his department which he submits to the city council each year. (Ib., Sec. 548). The council, with the approval of the board of estimates, levies taxes to meet what they consider necessary expenses. The council is also empowered to issue "Park Improvement Bonds," at a rate of interest not exceeding 4 per cent, maturing in 30 years. These

moneys are held by the city treasurer, to be drawn upon by the park commissioner with the consent of the council and the board of estimates. (Ib., Sec. 549).

New York.—Three men appointed by the mayor and holding office during his pleasure, form the park board, which is at the head of the department of parks. The salary of each is \$5,000 a year. One of the commissioners is designated by the mayor as president. Each one of the commissioners has jurisdiction over the parks in one of the three divisions of Greater New York. (Charter, Sec. 607). The title to all parks, squares and public places is vested in this board. (Ib., Sec. 608). The city council establishes by ordinance all needful rules for the government and protection of parks. The park board has the power to establish and enforce general rules and regulations for the administration of the department, and subject to the ordinances of the council, rules for the government and protection of the parks. Any violation of these rules subjects the offender to a fine by a city magistrate, not exceeding \$50. (Ib., Sec. 610). The boards may employ when authorized by the board of estimate and apportionment a landscape architect, whose assent is necessary to the making of any improvement in the parks. (Ib., Sec. 611). Each commissioner has full power over the parks in his division of the city, subject to the regulations of the council and the commission as a whole. (Ib., Sec. 612). The commission has jurisdiction over various museums, zoological gardens, etc. (Ib., Sec. 613-619, 626). The commission appoints a secretary and subordinate officers for the main office. Each commissioner appoints all the employees (Ib., Sec. 614) and makes an estimate of the money needed in his own division. These estimates are revised by the board and made into one estimate which is sent to the board of estimates and apportionment, whose duty it is, together with the council, to provide for the parks in the annual budget. (Ib., Sec. 617). The police force necessary for use in the parks is provided by the police department. (Ib., Sec. 313).

Philadelphia.—The mayor, the presidents of the select and common councils, the chief engineer and surveyor, together with 10 citizens appointed for 5 years by the court of common pleas, constitute a board called the "Commissioners of Fairmont Park." They receive no compensation for their services. (P. L. 1867, p. 548). They have exclusive powers to maintain and improve the park. Expenditures can only be made after an appropriation by the council. (Ib., p. 549). They appoint all subordinates at pleasure, and fix their duties and compensation. (P. L. 1868, p. 1087). The council may confer upon this commission any existing or future parks. (P. L. 1869, p. 1165). The commission may establish rules and regulations for the use of the park. (Ib., p. 1088). The park board may fix fines not exceeding \$5 for the violation of any of its regulations.

(*Ib.*, p. 1089). The board organizes, equips and pays its own police force. (*Ib.*, p. 1090). The city council is directed to appropriate the money necessary to maintain the parks. (P L. 1871, p. 874).

St. Louis.—A park commissioner is appointed for a term of 4 years. He has supervision and control of all public parks, places and squares in the city, except one park. He makes a monthly report to the comptroller and an annual report to the mayor. (Charter, Art. VIII, Sec. 1; Art. IV, Sec. 47). It is the duty of the commissioner to execute all ordinances of the city with regard to the parks and with the approval of the mayor to appoint such assistants and employees as are provided for by ordinance. (*Ib.*, Art. VIII, Sec. 2). The council must make an annual appropriation of not less than \$30,000 for park purposes. (*Ib.*, Art. VIII, Sec. 3). The park commissioner is a member of the board of public improvements. (*Ib.*, Art. IV, Sec. 3).

San Francisco.—The park commissioners, 5 in number, one of whom must be an artist, have charge of all the parks, squares and public grounds in the city. They are appointed by the mayor for a term of 4 years and receive no compensation. (Charter, Art. XIV, Secs. 1, 3). The commissioners may adopt ordinances for the regulation, use and government of parks. Violations of any of their regulations is a misdemeanor. (*Ib.*, Sec. 5). They have complete and exclusive control of all parks, squares, etc., and employ and appoint all employees. They have the exclusive right of disbursement of all funds appropriated for park purposes. They are prohibited from leasing any part of the parks. (*Ib.*, Sec. 6). The regular police force furnishes the necessary patrolmen. (*Ib.*, Sec. 7). All money appropriated or donated for park purposes is deposited with the treasurer of the city and county and credited to the parks fund. (*Ib.*, Sec. 8). No work of art can be erected, moved, or removed without the consent of the board. (*Ib.*, Sec. 10). The supervisors of the city are directed to levy a tax of not less than 5 nor more than 7 cents on each \$100 of assessed property for park purposes. (*Ib.*, Sec. 11).

Canada. (Toronto.)

Parks, park systems, etc., are established, controlled, and managed by ordinance, subject to "an act to provide for the establishment and maintenance of public parks." (Rev. Stat., Ontario, 1897, Ch. 233, Sec. 2).

The general management, regulation and control are vested in the board of park management. This board is composed of the mayor and 6 other citizens, not members of the council, appointed by the council on the nomination of the mayor. (*Ib.*, Secs. 4, 5). The appointed members of the board hold office 3 years, 2 being appointed each year. (*Ib.*, Sec. 6). The board meets at least once a month and oftener if necessary. (*Ib.*) The board employs "clerks,

agents, and servants" and prescribes their duties and compensation. (Ib., Sec. 8).

(6.) Department of Legislative Reference.

Baltimore.—By an act passed by the legislature in 1906 the charter of Baltimore was amended by the establishment of a department of legislative reference. The new department is under the control of a board consisting of the mayor, city solicitor, president of Johns Hopkins University, president of the Municipal Art Society, and the president of the Merchants and Manufacturers Association of Baltimore. The members of the board serve without pay. It is their duty to employ a competent statistician as the executive officer of the board to organize and conduct the department. This executive officer holds office during good behavior and is subject to removal by a majority of the board for incompetence or neglect of duty. His salary must be at least \$2,000 a year.

The duties of the executive head of the department are defined as follows: "It shall be the duty of said executive officer to investigate and report upon the laws of this and other states and cities relating to any subject upon which he may be requested to so report by the Mayor of Baltimore, any committee of the city council or the head of any city department; to accumulate all data obtainable in relation to the practical operation and effect of such laws; to investigate and collect all available information relating to any matter which is the subject of proposed legislation by the General Assembly of Maryland or the City Council of Baltimore; to examine acts, ordinances and records of any state or city, and report the result thereof to the Mayor of Baltimore, any committee of the City Council, or the head of any department requesting the same; to prepare or advise in the preparation of any bill, ordinance or resolution when requested so to do by any member of the City Council; to preserve and collate all information obtained, carefully indexed and arranged so as to be at all times easily accessible to city officials and open to the inspection of the general public; to perform such other duties as the said board may prescribe, and to make a full and complete report thereof on or before the first day of February of each and every year; to cover the work for the previous fiscal year ending December thirty-first." (Laws of Md., 1906.)



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